

# **VANUATU**

## **BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 18<sup>th</sup> session, 2014**

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Global Initiative to  
**End All Corporal Punishment  
of Children**

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**The Government of Vanuatu accepted recommendations to eradicate corporal punishment of children made during the Universal Periodic Review in 2009 and as a party to the Convention on the Rights of the Child is under an obligation to prohibit it in all settings. However, corporal punishment remains lawful.**

**We hope the Working Group will note with concern the legality of corporal punishment in Vanuatu. We hope states will raise the issue during the review in 2014 and make a specific recommendation that legislation is enacted in Vanuatu to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.**

### **1 The initial review of Vanuatu by the Human Rights Council (2009)**

1.1 Vanuatu was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). The issue of corporal punishment of children was included in the compilation of UN information<sup>1</sup> and in the summary of stakeholders' views.<sup>2</sup> The following recommendation was made and was accepted by the Government:<sup>3</sup>

“Take all measures to eradicate the practice of corporal punishment in the family and juvenile justice systems and to ensure effective implementation of the ban on this punishment in schools (Azerbaijan)”

1.2 Prohibiting and eliminating corporal punishment of children is a key obligation under the Convention on the Rights of the Child and other international human rights instruments. The issue was raised by the Committee on the Rights of the Child in its review of Vanuatu's initial report in 1999 and recommendations made to address it by all necessary

<sup>1</sup> 9 March 2009, A/HRC/WG.6/5/VUT/2, Compilation of UN information, para. 23

<sup>2</sup> 23 February 2009, A/HRC/WG.6/5/VUT/3, Summary of stakeholders' information, para. 19

<sup>3</sup> 4 June 2009, A/HRC/12/14, Report of the working group, para. 56(36)

measures.<sup>4</sup> Yet since the first cycle review of Vanuatu in 2009 there has been no change in the legality of corporal punishment of children. Today, as in 2009, it is lawful in the home, in alternative care settings and possibly in the penal system.

- 1.3 The obligation to reform the law to prohibit corporal punishment, including in the home, is one frequently ignored or evaded by governments. The near universal acceptance of a degree of violent punishment in childhood and deeply held views that parents and other adults have a “right” to physically punish children can challenge efforts to achieve prohibition. This situation means that corporal punishment – at least to some degree – is typically not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence. It also means it is essential in realising children’s rights that the law specifically prohibits “corporal punishment”. **It is for these reasons that we respectfully urge members of the Working Group to specifically recommend prohibition of corporal punishment in the review of Vanuatu.**

## **2 Legality of corporal punishment in Vanuatu**

2.1 **Home (lawful):** Children are legally protected from violence and ill-treatment by the Penal Code 1981 (amended 2007) and the Family Protection Act 2008 but these are not interpreted as prohibiting all corporal punishment in childrearing.

2.2 **Schools (unlawful):** Corporal punishment is prohibited in schools in article 38 of the Education Act 2001.

2.3 **Penal system – sentence for crime (?unlawful):** There is no provision for judicial corporal punishment in the Penal Code 1981, the Criminal Procedure Code (amended 2003) or the Island Courts Act 1983 (amended 2006); the Constitution 1980 (amended 2004) recognises the right to freedom from inhuman treatment (article 5). However, it is used in rural areas as a traditional form of punishment favoured by chiefs. We have been unable to ascertain the legality of this. Furthermore, in research by UNICEF, police officers reported that they administer corporal punishment in 2% of cases per month where children commit a crime.<sup>5</sup>

2.4 **Penal system – disciplinary measure in penal institutions (unlawful):** Corporal punishment is not among permitted disciplinary measures in the Correctional Services Act 2006, but there is no explicit prohibition.

2.5 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment.

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*

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*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.*

<sup>4</sup> 10 November 1999, CRC/C/15/Add.111, Concluding observations on initial report, para. 16

<sup>5</sup> UNICEF & AusAid (2009), *Protect me with love and care: A Baseline Report for creating a future free from violence, abuse and exploitation of girls and boys in Vanuatu*, Suva: UNICEF Pacific