



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

**BRIEFING ON SOLOMON ISLANDS FOR THE COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – July 2012**

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The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

This briefing describes the legality of corporal punishment of children in the Solomon Islands. In light of General Recommendation No. 19 on Violence against women (1992) and the links between corporal punishment of children and all other forms of violence including gender-based violence, we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for the Solomon Islands, asking in particular what progress has been made towards prohibiting and eliminating corporal punishment in the home, and**
- **recommend to the Solomon Islands, being examined in the absence of a report, that prohibition of corporal punishment be enacted and implemented in the home as a matter of priority.**

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

1 The law regarding corporal punishment of children in the Solomon Islands

1.1 In the Solomon Islands, corporal punishment is unlawful in the penal system. However, it is lawful in the home, schools and care settings under article 233 of the Penal Code, which addresses cruelty to children but also states: “Nothing in this section shall be construed as affecting the right of any parent, teacher, or other person, having the lawful control of a child or young person to administer reasonable punishment to him.” The defence of “reasonable punishment” is available to parents, people acting *in loco parentis* and teachers who use corporal punishment on children when charged with the offences of assault and assault causing bodily harm.

1.2 The “reasonable punishment” defence was reviewed by the High Court of the Solomon Islands in 1987.² The Court ruled that corporal punishment *per se* is consistent with the Constitutional right not to be subjected to torture or inhuman treatment (section 7) but that inflicting it in view of other people amounts to degrading treatment and is therefore inconsistent with the Constitution. Since that time, the Solomon Islands has ratified the Convention on the Rights of the Child and in 2011 accepted recommendations to prohibit corporal punishment made during the Universal Periodic Review.³

2 Moves towards law reform

2.1 The Law Reform Commission has been reviewing the Penal Code, including article 233, since 2008. In 2009, the Commission issued a public consultation paper which included questions about corporal punishment. It drew attention to the recommendations of the UN Committee on the Rights of the Child to prohibit all corporal punishment but also noted that in some countries laws have been amended which continue to allow a certain degree of corporal punishment by parents.⁴

2.2 As at June 2012, it appears that amendments to the Penal Code to prohibit corporal punishment have yet to be tabled in Parliament.

3 Recommendations by human right treaty monitoring bodies

3.1 In 2003, following examination of the initial state party report, the **Committee on the Rights of the Child** expressed concern at the widespread use of corporal punishment in the family, schools and other institutions, and in alternative care settings. The Committee recommended that legislative and other measures be taken to prohibit corporal punishment in all settings, together with a study to assess the nature and extent of the problem and relevant public education campaigns.⁵

3.2 In considering the implementation in Solomon Islands of the Convention on the Elimination of All Forms of Discrimination Against Women, we hope the Committee on the Elimination of Discrimination Against Women will urge the Government to ensure

² *Regina v Rose* [1987] SILR 45

³ 11 July 2011, A/HRC/18/8, Report of the Working Group on the Universal Periodic Review: Solomon Islands, paras. 80(15) and 80(31)

⁴ Solomon Islands Law Reform Commission (2009), *Review of the Penal Code – Children*, p. 2. See also Solomon Islands Law Reform Commission (2008), *Review of Penal Code and Criminal Procedure Code, Issues Paper 1*

⁵ 2 July 2003, CRC/C/15/Add.208, Concluding observations on initial report, paras. 30 and 31

that amendments to the Penal Code achieve prohibition of all corporal punishment by all persons, without exception.

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