



SAMOA – COUNTRY REPORT

Summary of necessary legal reform to achieve full prohibition

Settings where explicit prohibition is necessary

home, penal institutions, alternative care settings

Is there a legal defence for corporal punishment which must be repealed?

Article 14 of the Infants Ordinance confirms “the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child”. The near universal acceptance of a certain level of violence in childrearing means that in the absence of explicit prohibition corporal punishment would be seen as “reasonable”. This provision should be repealed, so that there is clarity in the law that no degree or kind of corporal punishment can be considered “reasonable” or lawful, and explicit prohibition should be enacted of all corporal punishment of children by all persons with authority over them.

Other legislative measures necessary

Penal institutions – Explicit prohibition should be enacted in relation to permitted disciplinary measures in all institutions accommodating children in conflict with the law, in addition to repeal of article 14 of the Infants Ordinance.

Alternative care settings – Explicit prohibition should be enacted of all corporal punishment in all alternative care settings, including public and private day care, residential care, foster care, etc, in addition to repeal of the right “to administer reasonable punishment” in the Infants Ordinance.

DETAILED COUNTRY REPORT

Legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 12 of the Infants Ordinance (1961) provides for the protection of children under 14 years from ill-treatment and neglect, but article 14 states: “Nothing in this Part of this Ordinance shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer reasonable punishment to such child.” Provisions against violence and inhuman and degrading treatment in the Crimes Ordinance (1961) and the Constitution (1960) are not interpreted as prohibiting corporal punishment in childrearing.

Schools

Corporal punishment is prohibited in schools in article 23 of the Education Act (2009), which states: “Discipline – (1) Every school and early childhood education centre must have a discipline policy. (2) A discipline policy must not include or permit the use of (a) corporal punishment; (b) any form of punishment that may cause harm to the recipient; or (c) any form of punishment that humiliates or is intended to humiliate the recipient. (3) A teacher or staff member of a school must not administer corporal punishment to a school student at a school or during any activity organised by a school. (4) A person employed at an early childhood education centre must not administer corporal punishment to any child at the early childhood education centre or during any activity organised by the early childhood education centre.”

Penal system

Corporal punishment is unlawful as a **sentence for crime**. There is no provision for judicial corporal punishment in the Criminal Procedure Act (1972, amended 2004) or the Young Offenders Act (2007). Article 7 of the Constitution (1960, amended 2000) provides for freedom from torture or inhuman or degrading treatment or punishment.

There is no explicit prohibition of corporal punishment as a **disciplinary measure** in penal institutions. The Young Offenders Act allows for young people aged 10-16 to be sent to residential institutions and prison but does not address disciplinary measures in these institutions. There is no provision in the Prisons Act (1967) for corporal punishment as a punishment for disciplinary offences in prisons.

Alternative care

Corporal punishment is lawful in alternative care settings under article 14 of the Infants Ordinance (see above).

Prevalence research

None identified.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(16 October 2006, CRC/C/WSM/CO/1, Concluding observations on initial report, paras. 35 and 36)

“The Committee is concerned that corporal punishment in the family, in schools and in alternative care settings is not formally prohibited and widely practised.

“The Committee recommends that the State party introduce and enforce legislation prohibiting all forms of corporal punishment in all settings, including in the family and the alternative childcare system and in this respect the Committee fully supports the actions planned by the State party. Furthermore, the Committee recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2, and take into account its general comment No. 8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment (CRC/GC/2006/8).”

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

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