

Corporal punishment of children in Tokelau

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Also available online at

www.endcorporalpunishment.org

Child population [not available]



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care, schools and penal institutions.

Article 15 of the Crimes, Procedure and Evidence Rules 2003 allows for the use of force “by way of correction”. This provision should be repealed and prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment in childrearing and education.

Alternative care settings – Prohibition of corporal punishment should be enacted in legislation applicable to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Schools – Corporal punishment should be explicitly prohibited in legislation applicable to all schools and education settings.

Penal institutions – Corporal punishment should be explicitly prohibited by law in all institutions accommodating children in conflict with the law.

Note: Tokelau is a non-self-governing territory of New Zealand.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Article 12 of the Crimes, Procedure and Evidence Rules 2003 criminalises cruelty to a child – ill-treatment “in a manner likely to cause the child unnecessary suffering, actual bodily harm, injury to health, or mental disorder, or to result in any other unnecessary physical or mental disability to the child” – but it does not prohibit all corporal punishment. Article 15 punishes assault but authorises the use of force for “correction”: “(3) A person is justified in using force by way of correction of a child under their care or of a persons voluntarily in their tutelage, if the force used is reasonable in the circumstances.”

Alternative care settings

Corporal punishment is lawful in alternative care settings under the provision for the use of force “by way of correction” in article 15 of the Crimes, Procedure and Evidence Rules 2003 (see under “Home”, above).

Day care

Corporal punishment is lawful in early childhood care and in day care for older children under the provision for the use of force “by way of correction” in article 15 of the Crimes, Procedure and Evidence Rules 2003 (see under “Home”, above).

Schools

The National Curriculum Policy Framework (19 September 2006) states that corporal punishment should not be used in section 4.16: “Discipline. “Every child and student should be given or treated with and allowed to have respect and dignity. They shall be given positive guidance promoting appropriate behaviour, having regard to the child’s stage of development. This guidance must be by means of praise and encouragement, rather than blame, harsh language, belittling or degrading responses. All students will be encouraged to show respect for teachers, other students, property of the school and others. No child or student shall be subjected to any form of physical ill treatment, corporate punishment, or verbal abuse. All teachers will be expected to treat students with respect. Schools will have procedures that clearly state what acceptable and unacceptable behaviour is. Teachers will inform parents and students of school rules, classroom rules, and these should be clearly displayed. Consequences for unacceptable breach of the rules will be clearly stated and explained to both students and their parents. The consequences will be fair, just, and appropriate. All teachers including principals are not permitted to use corporate punishment as a form of discipline....”

However, there is no explicit prohibition of corporal punishment in law. Rather, corporal punishment is lawful under the provision for the use of force “by way of correction” in article 15 of the Crimes, Procedure and Evidence Rules 2003 (see under “Home”, above).

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in the Tokelau Act 1948 or the Village Incorporation Regulations 1989.

Universal Periodic Review of New Zealand's human rights record

New Zealand was examined in the first cycle of the Universal Periodic Review in 2009 (session 5). No recommendations were made concerning corporal punishment of children.

The second cycle review of New Zealand took place in 2014 (session 18). No recommendations were made specifically on corporal punishment of children.

Third cycle review took place in 2019 (session 32). No recommendations were made specifically on corporal punishment of children.

Recommendations by human rights treaty bodies

Note: It appears the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women apply in Tokelau.

No relevant recommendation.

Prevalence/attitudinal research in the last ten years

None identified.