**BRIEFING FROM GLOBAL INITIATIVE**

**TO END ALL CORPORAL PUNISHMENT OF CHILDREN**

**BRIEFING FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD**

**PRE-SESSIONAL WORKING GROUP – October 2011**

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**NIUE (third/fourth report – CRC/C/CYP/3-4)**

**Corporal punishment in the home**

Corporal punishment is lawful in the home. Provisions against violence and cruelty in the Niue Act (1966) are not interpreted as prohibiting corporal punishment. There is no reference to a specific right to administer punishment for purposes of discipline, but article 238 confirms that common law defences apply, which presumably includes the defence of “reasonable chastisement”. In 2010 a Family Protection Bill was under discussion.

**Corporal punishment outside the home**

Corporal punishment is lawful in **schools**. Under article 22 of the Education Act 1989, the Principal is responsible for the “care, safety, control and discipline of each pupil attending that school”; there is no prohibition of corporal punishment.

In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Niue Act. We have been unable to ascertain the legality of corporal punishment as a disciplinary measure in penal institutions.

There is no explicit prohibition of corporal punishment in **alternative care settings**.

**This is the first examination of implementation of the Convention in Niue by the Committee on the Rights of the Child. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will raise the issue in its List of Issues for Niue, in particular asking what steps have been taken to ensure that children are protected in law from all forms of corporal punishment in all settings, including the home. We hope the Committee will subsequently recommend that corporal punishment is explicitly prohibited in the home, schools and all other settings, including through explicit repeal of the common law defence of “reasonable chastisement”, and that the Government of Niue conducts relevant awareness raising and promotes positive, non-violent discipline.**

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

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