



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

SUDAN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 11th session, 2011

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

Summary

The interim government of Southern Sudan has prohibited corporal punishment of children in all settings, including the home. However, it is lawful in most settings in Northern Sudan, where federal legislation applies, despite the repeated recommendations of the Committee on the Rights of the Child and other treaty monitoring bodies. We hope the Review will highlight the importance of prohibiting all corporal punishment of children in all settings, including the home, and recommend the enactment of legislation to achieve this throughout Sudan as a matter of priority.

1 Legality of corporal punishment in Sudan

1.1 In Southern Sudan, the interim government has explicitly prohibited corporal punishment in the **home** and all other settings. Article 21 of the Interim Constitution of Southern Sudan (2005) states: “Every child has the right ... to be free from corporal punishment and cruel and inhuman treatment by any person including parents, school administrations and other institutions...” Article 21 of the Child Act of Southern Sudan (2008) states that “no child shall be subjected to corporal punishment by chiefs, police teachers, prison guards or any other person in any place or institution, including schools, prisons and reformatories”. But corporal punishment is lawful in the home in Northern Sudan, where provisions against violence and abuse in the Child Act (2010), the federal Interim Constitution (2005) and other laws are not interpreted as prohibiting all corporal punishment in childrearing.

1.2 The new federal Child Act prohibits “cruel penalties” in **schools** (article 29) but does not explicitly prohibit all forms of corporal punishment. In Southern Sudan, corporal punishment is unlawful in schools under the Southern Sudan Constitution and Child Act (see above).

1.3 With regard to the **penal system**, the federal Child Act states that the children’s court may not sentence a child to whipping (article 77), and that a criminal court which convicts a child of an offence must refer the child to the children’s court for sentencing (article 67). We have yet to confirm that children may not be sentenced to corporal punishment by Islamic courts in Northern Sudan. In Southern Sudan, judicial corporal punishment is unlawful under the Southern Sudan Constitution and Child Act.

1.4 There is no explicit prohibition at a federal level of corporal punishment as a disciplinary measure in penal institutions, which is therefore lawful in Northern Sudan. In Southern Sudan, corporal punishment is unlawful in penal institutions under article 21 of the Child Act and article 21 of the Interim Constitution of Southern Sudan.

1.5 There is no explicit prohibition at a federal level of corporal punishment in **alternative care settings**, which is therefore lawful in Northern Sudan. In Southern Sudan, it is prohibited under article 21 of the Interim Constitution of Southern Sudan and section 21 of the Child Act (see above).

2 Recommendations by human rights treaty monitoring bodies

2.1 The **Committee on the Rights of the Child** has on three occasions expressed concern at corporal punishment of children and recommended its explicit prohibition, including in the home – in 2010 in its concluding observations on the state party’s third/fourth report (CRC/C/SDN/CO/3-4 Advance Unedited Version, paras. 39 and 40), in 2002 on the second report (CRC/C/15/Add.190, paras. 35, 36 and 70) and in 1993 on the initial report (CRC/C/15/Add.10, paras. 4 and 17; see also CRC/C/15/Add.6, para.7).

2.2 The **Human Rights Committee** has repeatedly recommended the abolition of flogging and other corporal punishment as sentences for crimes (CCPR/C/SDN/CO/3, 2007, Concluding observations on third report, para. 10, and CCPR/C/79/Add.85, 1997, Concluding observations on second report, para. 9).

2.3 In 2000, the **Committee on Economic, Social and Cultural Rights** expressed concern at the lashing of women under the Public Order Act (1996) and recommended law reform to end it (E/C.12/1/Add.48, 2000, Concluding observations on initial report, paras. 24 and 34).