

Corporal punishment of children in Uganda: Briefing for the Universal Periodic Review, 26th session, 2016

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

The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.

In Uganda, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights. The Government drafted and tabled a Bill which would have achieved prohibition but later withdrew it.

We hope the Working Group will note with concern the legality of corporal punishment of children in Uganda. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Uganda clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal the common law defence of “reasonable chastisement”.

1 Review of Uganda in the 1st cycle UPR (2011) and progress since

1.1 Uganda was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders' information.² No recommendations were made specifically on corporal punishment but the Government accepted a number of relevant recommendations, including to harmonise domestic law with international human rights instruments and to improve protection for children.³

1.2 Prohibiting and eliminating all corporal punishment of children, including in the home, is an obligation on states under the Convention on the Rights of the Child and other international and regional human rights instruments, but it is one frequently evaded. Since the initial UPR in 2011, there have been some positive legislative developments in Uganda: in March 2016 prohibition of corporal punishment in schools was achieved with the enactment of amendments to the Children Act. However, a Bill which would have achieved prohibition in all settings including the home was withdrawn by the Government.

1.3 We hope the Working Group will note with concern the legality of corporal punishment of children in Uganda. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Uganda clearly prohibit all corporal punishment of children

¹ 25 July 2011, A/HRC/WG.6/12/UGA/2, Compilation of UN information, para. 29

² 22 July 2011, A/HRC/WG.6/12/UGA/3, Summary of stakeholders' information, para. 26

³ 22 December 2011, A/HRC/19/16, Report of the working group, paras. 111(1), 111(2), 111(58) and 111(59)

in all settings including the home and explicitly repeal the common law defence of “reasonable chastisement”.

2 Legality of corporal punishment in Uganda

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in Uganda is unlawful in schools and the penal system but it is not prohibited in the home, alternative care settings and day care. A Bill which would have achieved prohibition in all settings was withdrawn from Parliament in 2015.

- 2.1 ***Home (lawful)***: A right to administer “reasonable chastisement” is recognised under common law. Provisions against violence and abuse in the Children Act 2003, the Constitution 1995, the Penal Code 1950 and the Domestic Violence Act 2009 do not prohibit all corporal punishment in childrearing.
- 2.2 A Government Children (Amendment) Bill was under discussion in 2015 which would have prohibited corporal punishment in the home and all other settings. However, it was tabled alongside a Private Members’ Bill – the Children (Amendment) (No. 2) Bill – which included prohibition in schools only. The Government subsequently withdrew its Bill in favour of the Bill prohibiting only in schools.
- 2.3 ***Alternative care settings (lawful)***: There is no explicit prohibition of corporal punishment in alternative care settings.
- 2.4 ***Day care (lawful)***: There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.
- 2.5 ***Schools (lawful)***: Corporal punishment is unlawful in schools following the enactment of amendments to the Children Act in March 2016. Prior to this, Ministerial circulars (No. 15/2006 and No. 2/2015) and the Guidelines for Universal Primary Education (1998, art. 3.4 iii) had stated that corporal punishment should not be used in schools, but there had been no explicit prohibition in law.
- 2.6 ***Penal institutions (unlawful)***: Corporal punishment is prohibited as a disciplinary measure in penal institutions in the Prisons Act (2003, in force May 2006).
- 2.7 ***Sentence for crime (unlawful)***: Corporal punishment as a sentence for crime was ruled unconstitutional in a 1999 Supreme Court ruling⁴ and is explicitly prohibited in article 94(9) of the Children Act 2003.

3 Recommendations by human rights treaty bodies

- 3.1 ***CRC***: The Committee on the Rights of the Child has twice made recommendations to Uganda concerning prohibition and elimination of corporal punishment – in its concluding observations on the state party’s initial report in 1997⁵ and on the second report in 2005.⁶

⁴ *Kyamanywa v. Uganda*, Criminal appeal No. 16

⁵ 21 October 1997, CRC/C/15/Add.80, Concluding observations on initial report, paras. 15 and 35

⁶ 23 November 2005, Concluding observations on second report, CRC/C/UGA/CO/2, paras. 39 and 40

3.2 **CESCR:** In 2015, the Committee on Economic, Social and Cultural Rights expressed concern at corporal punishment of children in the home, schools and care institutions in Uganda and recommended that it be prohibited.⁷

3.3 **HRC:** In 2004, the Human Rights Committee expressed concern about the use of corporal punishment in prisons.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, 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, and since 2011 the Committee on the Rights of Persons with Disabilities.

⁷ 24 June 2015, E/C.12/UGA/CO/1, Concluding observations on initial report, para. 27

⁸ 4 May 2004, CCPR/CO/80/UGA, Concluding observations on initial report, paras. 5 and 18