



Global Initiative to
End All Corporal Punishment
of Children

BRIEFING ON SUDAN FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 109th session (Oct/Nov 2013)

*From Dr Sharon Owen, Research Coordinator, Global Initiative
info@endcorporalpunishment.org*

1 The human rights obligation to prohibit corporal punishment

- 1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Sudan. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General's Study on Violence against Children and the repeated recommendations to Sudan by the human rights treaty monitoring bodies, including the Human Rights Committee, we hope the Committee will:

- **raise the issue of corporal punishment of children in its List of Issues for Sudan, in particular asking what measures are being taken to explicitly prohibit corporal punishment in the home and all other settings, and**
- **recommend to Sudan, following its examination of the state party's fourth report, that legislation is enacted and enforced which explicitly prohibits corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

2 Sudan's report to the Human Rights Committee

- 2.1 Sudan's fourth report to the Committee (CCPR/C/SDN/4) includes information relating to the protection of children's human rights and makes particular references to the Child Act 2010 (e.g. paras. 189ff). However, it provides no information on corporal punishment of children – violence which may lawfully be inflicted on them and which the Child Act 2010 failed to prohibit.
- 2.2 The obligation to prohibit and eliminate corporal punishment is one frequently evaded by Governments. The near universal acceptance of a degree of violence in childrearing, together with deeply held views that parents and other adults have a "right" to physically punish children, means that corporal punishment is not readily perceived as a violent act in the same way as, for example, sexual and other socially unacceptable forms of violence: it is imperative that corporal punishment be explicitly prohibited and that no justifications or potential justifications for its use remain in law.

2 Legality of corporal punishment of children in Sudan

- 2.1 Corporal punishment of children in Sudan is lawful in all settings – the home, alternative care and day care settings, schools, penal institutions and possibly as a sentence for crime.
- 2.2 *Home (lawful)*: Provisions against violence, inhuman and degrading treatment and abuse in the Child Act 2010, the Interim National Constitution of the Republic of the Sudan 2005 and other laws are not interpreted as prohibiting all corporal punishment in childrearing. At state level, all states have adopted constitutions which provide for child protection, and specific child legislation has been or is being adopted; to our knowledge, the new laws do not prohibit corporal punishment.
- 2.3 *Alternative care settings (lawful)*: There is no explicit prohibition of corporal punishment: it is lawful as for parents.
- 2.4 *Day care (lawful)*: Corporal punishment is lawful as in the home.
- 2.5 *Schools (partial prohibition)*: At federal level, the Child Act 2010 prohibits "cruel penalties" in school (article 29) but does not explicitly prohibit all corporal punishment. Corporal punishment is explicitly prohibited in schools in Khartoum State under Decree No. 10 (2010).
- 2.6 *Penal institutions (lawful)*: The Criminal Procedure Act 1991 states that an arrested person "shall be treated in such a way, as may preserve the dignity of the human being" and shall not be hurt physically or mentally (article 83), but there is no explicit prohibition of corporal punishment in this or the Child Act.
- 2.7 *Sentence for crime (? unlawful)*: The effect of the Child Act 2010 on the legality of corporal punishment as a sentence for crime is unclear. In sentencing a child the court must "give due regard" to the principle that "the sentence of whipping is not inflicted on the child" (article 77), but it is not clear that giving "due regard" amounts to prohibition of judicial whipping in all cases, including as *hudud*. The Act does not prohibit other forms of corporal punishment, such as amputation and wounding as retribution, which may be imposed for *hudud* offences under the Criminal Code 1991 (e.g. see articles 28, 29, 30, 31, 32 and 168). The Child Act 2010 states that it prevails over any other law where there is inconsistency (article 3), but it is not clear that this applies to *hudud* offences.

4 Recommendations by human rights treaty bodies

- 4.1 *HRC*: The Human Rights Committee has repeatedly expressed concerns about corporal punishment such as flogging and amputation in Sudan and recommended its abolition as a criminal penalty.¹ To date the Committee has not made specific recommendations concerning corporal punishment of children.
- 4.2 *CRC*: As long ago as 1993, the Committee on the Rights of the Child recommended a review of child-related laws aimed at the “total abolition of flogging” in Sudan.² The Committee subsequently recommended prohibition of corporal punishment in all settings, including the home, in 2002³ and again in 2010.⁴
- 4.3 *CESCR*: In 2000, the Committee on Economic, Social and Cultural Rights raised concerns about corporal punishment of women.⁵
- 4.4 *UPR*: Sudan was examined in the first cycle of the Universal Periodic Review in 2011 (session 11). The Government rejected recommendations to reform the Penal Code to abolish corporal punishment.⁶

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
August 2013

¹ 19 November 1997, CCPR/C/79/Add.85, Concluding observations on second report, para. 9 ; 29 August 2007, CCPR/C/SDN/CO/3, Concluding observations on third report, para. 10

² 18 October 1993, CRC/C/15/Add.10, Concluding observations on initial report, paras. 4 and 17 ; see also 18 February 1993, CRC/C/15/Add.6, Preliminary observations on initial report, para.7

³ 9 October 2002, CRC/C/15/Add.190, Concluding observations on second report, paras. 35, 36 and 70

⁴ 1 October 2010, CRC/C/SDN/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 39 and 40

⁵ 1 September 2000, E/C.12/1/Add.48, Concluding observations on initial report, paras. 24 and 34

⁶ 16 September 2011, A/HRC/18/16/Add.1, Report of the working group: Addendum, paras. 23 and 24