

# Corporal punishment of children in South Sudan

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Child population 6,028,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

**Law reform has been achieved. Corporal punishment is unlawful in all settings, including the home.**

## Prohibition of corporal punishment

### Home

Corporal punishment is unlawful in the home. Article 21 of the Interim Constitution of Southern Sudan 2005, enacted before independence under the Interim Government of Southern Sudan, stated: “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...”

Prohibition was confirmed in article 21 of the Child Act of Southern Sudan 2008, which 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”. On independence in July 2011, a new Constitution came into force – the Transitional Constitution of the Republic of South Sudan 2011 –which includes the prohibition of corporal punishment of children by all persons, including parents, in article 17(1): “Every child has the right: ... (f) to be free from corporal punishment and cruel and inhuman treatment by any person including parents, school administrations and other institutions...”

In April 2017 the National Constitution Amendment Committee presented a draft Constitution to the Government for approval.

### Alternative care settings

Corporal punishment is prohibited in alternative care settings in South Sudan under article 17 of the Transitional Constitution 2011 and article 21 of the Child Act 2008 (see under “Home”).

### Day care

Corporal punishment is prohibited in early childhood care and in day care for older children in South Sudan under article 17 of the Transitional Constitution 2011 and article 21 of the Child Act 2008 (see under “Home”).

## **Schools**

Corporal punishment is unlawful in schools under article 17 of the Transitional Constitution and article 21 of the Child Act of Southern Sudan (see under “Home”). In 2010, an Education Bill was under discussion which would explicitly prohibit corporal punishment “by any persons including parents, school administration and other institutions”.<sup>1</sup> As at November 2012, the General Education Bill under consideration would confirm prohibition in schools.

## **Penal institutions**

Corporal punishment is prohibited as a disciplinary measure in penal institutions under article 17 of the Transitional Constitution 2011 and article 21 of the Child Act 2008 (see under “Home”).

## **Sentence for crime**

Corporal punishment is unlawful as a sentence for crime under article 17 of the Transitional Constitution 2011. It is also prohibited in article 21 of the Child Act 2008 and is not among available sentences in article 181.

## **Universal Periodic Review of South Sudan’s human rights record**

South Sudan was examined in the first cycle of the Universal Periodic Review in 2011 (session 11), before the achievement of independence. Recommendations were made to abolish corporal punishment.<sup>2</sup> South Sudan had already prohibited corporal punishment of children in all settings.

Examination in the second cycle took place in 2016 (session 26). No recommendation was issued specifically on corporal punishment of children. However, the Government accepted recommendations to continue protecting the rights of children and to implement a national public awareness campaign on child rights.<sup>3</sup>

## **Recommendations by human rights treaty bodies**

### ***Committee on the Rights of the Child***

(22 October 2010, CRC/C/SDN/CO/3-4, Concluding observations on third/fourth report, paras. 39 and 40, recommendations made before South Sudan achieved independence)

“The Committee notes that the Child Act (2010) prohibits corporal punishment in schools. It also notes the adoption of the national plan to combat violence entitled “A Sudan Worthy of Children”. The Committee, however, is seriously concerned that corporal punishment, particularly caning and flogging, is widely practised in schools, in homes, in courts and in prisons.

“Taking into account its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to take all the necessary measures to end the practice of corporal punishment, and in particular, to:

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<sup>1</sup> 31 August 2010, CRC/C/SDN/Q3-4/Add.1, Written replies to the Committee on the Rights of the Child, para. 84

<sup>2</sup> A/HRC/18/16, Report of the Working Group, paras. 83(102) and 83(110)

<sup>3</sup> 15 November 2016, A/HRC/WG.6/26/L.11, Draft report of the Working Group, paras. 126(30), 126(31) and 126(40)

- a) explicitly prohibit corporal punishment by law in all settings, ensure effective implementation of the law and prosecute offenders;
- b) ensure that school discipline is administered in a manner which is consistent with the child's dignity as set out in article 28(2) of the Convention; and
- c) introduce public education, awareness-raising and social mobilization campaigns on the harmful effects of corporal punishment with a view to changing societal attitudes towards this practice, and promote positive, non-violent, participatory forms of child-rearing and education."

***Committee on the Rights of the Child***

(9 October 2002, CRC/C/15/Add.190, Concluding observations on second report, paras. 35, 36 and 70, recommendations made before South Sudan achieved independence)

"The Committee is concerned that corporal punishment is widely practiced in the State party, including within the family, schools and other institutions; that children have been the victims of violence by, among others, the police; and that acts of torture, rape and other cruel, inhuman or degrading treatment have been committed against children in the context of the armed conflict.

"The Committee recommends that the State party:

- a) prohibit under law the practice of corporal punishment in the family, in schools and in all other contexts and make use of legislative and administrative measures, as well as public education initiatives, to end the use of corporal punishment, including the provision of information on alternative non-violent methods of discipline;
- b) prevent all forms of violence against children and make sure that perpetrators of violence against children, including the police, are prosecuted....

"The Committee recommends that the State party:

- e) end the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman or degrading treatment or punishment, on persons who may have committed crimes while under 18...."

***Committee on the Rights of the Child***

(18 October 1993, CRC/C/15/Add.10, Concluding observations on initial report, paras. 4 and 17, recommendations made before South Sudan achieved independence)

"The Committee notes the willingness shown by the Government of the Sudan to take into account the recommendations made by the Committee with a view to reviewing existing legislation in order to bring it into conformity with the Convention. In this regard, the Committee welcomes the State party's decision to establish a committee to review national laws pertaining to children and that its preliminary observation in the area of the abolition of the punishment of flogging has been taken into account by the reviewing committee.

"The Committee expresses the hope that the review of child-related laws will result in the total abolition of flogging."

### ***Committee on the Rights of the Child***

(18 February 1993, CRC/C/15/Add.6, Preliminary observations on initial report, para.7, recommendations made before South Sudan achieved independence)

“The Committee notes the non-compatibility of certain areas of national legislation with the provisions and principles of the Convention, including the punishment of flogging.”

### ***Committee on Economic, Social and Cultural Rights***

(1 September 2000, E/C.12/1/Add.48, Concluding observations on initial report, paras. 24 and 34, recommendations made before South Sudan achieved independence)

“The Committee is also gravely concerned about the occurrence of flagellation or lashing of women for wearing allegedly indecent dress or for being out in the street after dusk, on the basis of the Public Order Act of 1996, which has seriously limited the freedom of movement and of expression of women.

“The Committee strongly recommends that the State party reconsider existing legislation, particularly the 1996 Public Order Act, in order to eliminate discrimination against women, thereby ensuring their full enjoyment of human rights in general and economic, social and cultural rights in particular.”

### ***Human Rights Committee***

(29 August 2007, CCPR/C/SDN/CO/3, Concluding observations on third report, para. 10, recommendations made before South Sudan achieved independence)

“The Committee notes with concern the scale of values applied to punishment in the State party’s legislation. It considers that corporal punishment including flogging and amputation is inhuman and degrading. The Committee also notes with concern the continued practice of, and legislation concerning, *diya* (blood money) which may be paid in exchange for less severe punishment (arts. 2, 7, 10 and 14 of the Covenant).

The State party should abolish all forms of punishment that are in breach of articles 7 and 10 of the Covenant. It should also review the practice of the payment of *diya* (blood money) for murder and similar crimes. The State party should also ensure that sentences are proportional to the crimes and offences committed.”

### ***Human Rights Committee***

(19 November 1997, CCPR/C/79/Add.85, Concluding observations on second report, para. 9, recommendations made before South Sudan achieved independence)

“Flogging, amputation and stoning, which are recognized as penalties for criminal offences, are not compatible with the Covenant. In that regard, the Committee notes that:

By ratifying the Covenant, the State party has undertaken to comply with all its articles; penalties which are inconsistent with articles 7 and 10 must be abolished.”

### **Prevalence/attitudinal research in the last ten years**

None identified.