

Corporal punishment of children in Uganda

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Child population 21,473,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings and day care.

A right to administer “reasonable chastisement” is recognised under common law and protection from violence and abuse in the Children Act and other laws is not interpreted as prohibiting all corporal punishment. The near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable. Prohibition should be enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.

Alternative care settings – Prohibition should be enacted in legislation applicable to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. 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.

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 The Government Bill was later withdrawn, with the Minister of Gender, Labour and Social Development stating that the Private Member’s Bill “had hybrid provisions to sufficiently augment the current law”.¹ The amendments as passed in March 2016 and assented to in June 2016 included a new article 42A which states that every child has a right to be protected against all forms of violence including physical and emotional abuse, and article 42B which states prevention and early intervention programmes “must focus on ... developing appropriate parenting skills and the capacity of parents and caregivers to safeguard the wellbeing and best interest of the child, including the promotion of positive, nonviolent forms of discipline” – but they did not prohibit corporal punishment in childrearing. As the Government Bill to prohibit all corporal punishment was withdrawn, and there is no explicit intention of the Government to introduce further law reform, the Global Initiative no longer considers Uganda committed to prohibiting all corporal punishment of children without delay.

Uganda became a Pathfinder country with the Global Partnership to End Violence Against Children in 2016. This committed the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals. A 2017 report from the Ministry of Gender, Labour and Social Development recommended that the Government implement the INSPIRE package, promulgate “legislation forbidding violent punishment of children by parents, teachers, and others” and promote positive discipline instead of corporal punishment.² The National Parenting Guidelines, adopted in 2018, do not explicitly mention corporal punishment but do encourage the use of positive parenting.³

Alternative care settings

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

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children.

¹ Statement by the Minister of Gender, Labour and Social Development to Parliament on the Amendment of the Children’s Act Cap 59

² November 2017, Ministry of Gender, Labour and Social Development, *Violence against Children in Uganda: Findings from a National Survey (2015)*, page 80

³ May 2018, Ministry of Gender, Labour and Social Development, *The Uganda National Parenting Guidelines*

Schools

Corporal punishment is unlawful in schools. In March 2016, the Children Act was amended with the insertion of a new article 106A: “Corporal punishment in schools. (1) A person of authority in institutions of learning shall not subject a child to any form of corporal punishment. (2) A person who subjects a child to corporal punishment commits an offence and is liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred currency points or both.” As at October 2016, regulations were being developed to implement the law.

Prior to this reform, corporal punishment had been discouraged in schools by Ministerial Circular No. 15/2006 and the Guidelines for Universal Primary Education (1998, art. 3.4 iii), but there was no explicit prohibition in law. In *Emmanuel Mpondi v Chairman Board of Governors & 2 ORS UHRC 1 (1999-2002)* the Human Rights Commission Tribunal ruled that the beating of a student to the point of severe injury violated his right to protection against cruel, inhuman and degrading treatment, based on a 1999 Supreme Court ruling against corporal punishment in the penal system,⁴ but did not condemn all corporal punishment in schools.

In August 2015, the Ministry of Education, Science, Technology and Sports issued Circular No. 2/2015 – “Ban on all acts of violence against children in schools, institutes and colleges” – which states that violence in schools is outlawed in the Constitution, the Children Act, the Penal Code, the Domestic Violence Act and the Employment Act, and that schools should review their rules and regulations to replace corporal punishment with positive learning sanctions/actions.

Penal institutions

Corporal punishment is prohibited as a disciplinary measure in penal institutions in the Prisons Act (2003, in force May 2006).

Sentence for crime

Corporal punishment as a sentence for crime was ruled unconstitutional in a 1999 Supreme Court ruling⁵ and is prohibited in article 94(9) of the Children Act 2003: “No child shall be subject to corporal punishment).”

Universal Periodic Review of Uganda’s human rights record

Uganda was examined in the first cycle of the Universal Periodic Review in 2011 (session 12). No recommendations were made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁶

“Integrate international human rights instruments into domestic law (Chad);

“Continue to harmonize its domestic legislations with those international human rights instruments that Uganda is a party (Indonesia);

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

⁵ *Kyamanywa v. Uganda*, Criminal appeal No. 16

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

“Take necessary measures to protect Ugandan children against all practices detrimental to their physical and moral integrity (Burkina Faso);

“Continue efforts to provide better protection for the children, including reviewing its juvenile justice system (Indonesia)”

Examination in the second cycle took place in 2016 (session 26). The Government accepted the following recommendations:⁷

“Enact legislation prohibiting violence against children in all settings (Zambia)”

“Accelerate the establishment and the functioning of the National Children’s Authority to prevent and combat violence, exploitation and other degrading practices (Spain)”

“Continue to promote and protect rights of children (Syrian Arab Republic)”

“Strengthen the fight against violence against children and the taking care of abandoned children (Algeria)”

Uganda will be examined in the third cycle in 2021.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“While taking note that corporal punishment is prohibited in schools by a circular of the Ministry of Education, and in the penal system under the Children’s Act, the Committee remains concerned that corporal punishment is still traditionally accepted and widely practised in the family and in other settings.

“The Committee recommends that the State party explicitly prohibit by law all forms of corporal punishment in all settings, including in the family, the schools and alternative childcare, and implement those laws effectively. It also recommends that the State party conduct awareness-raising campaigns to ensure that alternative forms of discipline are used, in a manner consistent with child’s human dignity and in conformity with the Convention, especially article 28, paragraph 2.”

Committee on the Rights of the Child

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

“The Committee is concerned at the insufficiency of the measures to combat and prevent ill-treatment and abuse, including sexual abuse of children within the family, and at the lack of information on this matter. The Committee is further concerned that disciplinary measures in some schools and law enforcement institutions often involve corporal punishment, although this is prohibited by law.

“The Committee recommends that special attention be given to the problems of ill-treatment and abuse, including sexual abuse of children within the family and corporal punishment in schools, and stresses the need for information and education campaigns to prevent and combat the use of any form of physical or mental violence against children, in accordance with article 19 of the Convention.

⁷ 16 November 2016, A/HRC/WG.6/26/L.7, Draft report of the Working Group, paras. 115(14), 115(36), 115(58), and 115(71)

The Committee also suggests that comprehensive studies on these problems be initiated in order to understand them better and to facilitate the elaboration of policies and programmes to combat them effectively, including rehabilitation programmes.”

Committee on Economic, Social and Cultural Rights

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

“... The Committee also expresses its concern at the increasing number of street children and about the widespread violence against children, including corporal punishment at schools, home and care institutions....

... The State party should also consider adopting a comprehensive plan on protection of children, provide measures to assist street children and children in care institutions, and prohibit corporal punishment....”

Human Rights Committee

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

“The Committee welcomes the ruling of the Supreme Court in *Kyawanywa v. the Attorney-General*, declaring corporal punishment as unconstitutional.

“The State party has acknowledged the deplorable prison conditions in Uganda. The most common problems are overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. The treatment of prisoners continues to be a matter of concern to the Committee. There are reported incidents of corporal punishment for disciplinary offences. Solitary confinement and deprivation of food are also used as disciplinary measures. Juveniles and women are often not kept separate from adults and males. The Committee has taken note of the measures implemented by the State party to counteract these shortcomings, including the introduction of community service as an alternative to imprisonment. However, it notes that they are inadequate to overcome the problems. It is also concerned about the high percentage of persons detained on remand (almost 70 per cent of inmates) (arts. 7 and 10).

The State party should terminate practices contrary to article 7 and bring prison conditions into line with article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. It should also take immediate action to reduce overcrowding in prisons as well as the number of persons detained on remand.”

Committee Against Torture

(21 June 2005, CAT/CO/34/UGA, Concluding observations on initial report, para. 3)

“The Committee notes with satisfaction the following positive developments:

b) the abolition of corporal punishment following Criminal Appeal No. 16 of 1999 (Supreme Court) *Kyamanywa vs. Uganda*....”

Prevalence/attitudinal research in the last ten years

The first Violence Against Children Survey (VACS) conducted in 2015, involving 5,804 children and young people aged 13-24, reveals that while corporal punishment in schools is banned by Ugandan

law, it is still frequently used as the primary source of discipline, and it remains the favoured mode of discipline in Ugandan homes. Among youth aged 18-24 years, six in ten females (59%) and seven in ten males (68%) reported experiencing physical violence during their childhoods. Of children aged 13-17, four in ten girls (44%) and six in ten boys (59%) experienced physical violence in the last year. The survey found parents and adult relatives are the most common perpetrators of violence in childhood and recommends promoting the use of positive discipline among parents and caregivers, as well as teachers and other school officials, in lieu of corporal punishment.

(Ministry of Gender, Labour and Social Development (2017), *Violence against Children in Uganda: Findings from a National Survey, 2015* (Kampala, Uganda: UNICEF)

An evaluation of a community-based intervention to reduce violence against children, which took place from 2014-2015, found that violence against children is common, with estimates ranging from 52-89%. Among respondents aged 18-24 years old, 68% of boys and 59% of girls reported experiencing physical violence in their childhoods. After the intervention, the prevalence of emotional and physical violence against children reduced, and the proportion of caregivers reporting use of violent methods of discipline reduced by over 10%.

(The Evaluation Fund (2015), *Reducing violence against children: Lessons from a community-based approach in post-conflict Uganda*, Uganda: The Evaluation Fund)

A study conducted from 2012-2014 involving 42 primary schools in Luwero District assessed whether the Good School Toolkit – a complex behavioural intervention designed by Ugandan non-profit organisation Raising Voices – could reduce physical violence from school staff to primary school children. At baseline, 54% of students reported past week physical violence from school staff. After 18 months, the study found prevalence of past week physical violence was lower in the intervention schools (31%) than in the control schools (49%).

(Devries, K. M., et al (2015), “The Good School Toolkit for reducing physical violence from school staff to primary school students: a cluster-randomised controlled trial in Uganda”, *Lancet Global Health*, 385, e378–386)

In a 2013 survey that involved interviews with nearly 400 5-17 year olds, 35.2% had been hit or “spanked” with an object by a teacher in the past year and 32.9% had experienced this from parents or step-parents. More than a quarter (27.1%) had been hit or spanked with a hand in the past year by a parent or step-parent, 19.1% by a teacher; 32.3% had been pinched, had their ears twisted or their hair pulled in the past year by a teacher, 22.9% by a parent or step-parent. About 45% of children expressed disapproval of physical punishment, emphasising its negative effects including physical pain, emotional distress and damaging consequences for child-parent relationships.

(ANPCCAN & Makerere University (2013), *Baseline Survey on Community Child Protection Systems in Uganda*, ANPCCAN & Makerere University)

In a survey involving 3,200 children in eight districts in northern Uganda, corporal punishment in the home and at school was identified as one of children’s major safety concerns: 79% said they felt unsafe or scared due to beatings at school and 90% at home. When asked to draw something that made them feel unsafe at home, at school or in the community, more than half drew pictures of teachers beating children, and children in all regions drew pictures of corporal punishment in the home.

(WarChild UK (2012), *Child Safety Report Card: 2012 Regional Report*)

A survey of 990 children attending 25 primary schools in Arua, Apac, Kitgum, Mukono and Rakai Districts found that 81.5% had been beaten at school: 73% of the beatings were perpetrated by teachers and 12% by parents or guardians who were called into schools to punish children. Eighty-two per cent of the children had been made to do hard work such as digging, cleaning pit latrines and collecting water, usually as a punishment.

In a survey of 1,015 children at 25 public and private primary schools in Acholi, Lango, West Nile and Central regions, 81% reported having been beaten at school – 73% had been beaten by a teacher, 15% by other students, 12% by their parents or guardians. Children were also punished by being denied food for extended periods of time, locked up in rooms, assigned difficult work and forced to kneel in front of other children at school; 82% had seen their friends being caned. The study, conducted in April 2011 by ANPPCAN Uganda Chapter, also involved 52 professionals including teachers, head teachers, PTA members, police, government and non-government experts in the education and child protection fields at district and national level.

(Reported by Anppccan Uganda Chapter, 10 July 2011, www.anppcanug.org)

A 2011 report by Human Rights Watch documented corporal punishment of prisoners in Uganda, including beatings with batons, canes, sticks, whips and electric cable and wire, despite the prohibition of corporal punishment in the Prisons Act (2006). Children are sometimes detained with adults in prisons, even though this is prohibited. The report calls for efforts to end the use of corporal punishment and prosecution of persons who inflict it.

(Human Rights Watch (2011), *“Even Dead Bodies Must Work”*: Health, Hard Labor, and Abuse in Ugandan Prisons)

A 2010 study of juvenile detention in Uganda found that despite the prohibition of corporal punishment of children in penal institutions, children were routinely caned as a punishment in both Mbale Remand Home and Kampiringisa National Rehabilitation Centre. In Kampiringisa, children were also punished by being placed in an isolation cell. In the majority of remand homes, corporal punishment was not used. The report suggested that the legality of corporal punishment in the home and school in Uganda may account for its continued use in some penal institutions.

(Moore, M. (2010), *Juvenile Detention in Uganda: Review of Ugandan Remand Homes and the National Rehabilitation Centre*, African Prisons Project)

A 2010 African Child Policy Forum report on violence against children with disabilities in Cameroon, Ethiopia, Senegal, Uganda and Zambia documented a very high level of violence. Nearly a thousand 18-24 year olds took part in the study across the five countries, reporting on their experiences as children. In Uganda, 87% had experienced at least one type of physical violence during their childhood. The most commonly experienced type of physical violence was being hit, punched, kicked or beaten. Perpetrators of physical violence included stepmothers (10.8%), mothers (9.5%), fathers (8.7%) and other relatives (15.7%). Across the five countries, 23% said they had experienced physical violence which was “mostly discipline, reasonable and justified”, 27% which was “mostly discipline but not reasonable or justified”. Twenty-six per cent said they had experienced emotional violence which was “discipline, but not reasonable or justified”, 22% that was “disciplinary, reasonable and justified”. Across all five countries, more than half (54%) of those who had been physically beaten said they had suffered broken bones, teeth, bleeding or bruising; 2% had been permanently disabled; 21% required medical attention; 13% had to miss school or work; and 20% had needed rest at home. For all five countries, the majority of respondents with physical, visual and intellectual disabilities experienced physical violence more than 10 times. The report recommends prohibition of all corporal punishment, including in the home, as a way to minimise the risk of violence against children with disabilities.

(The African Child Policy Forum (2010), *Violence Against Children With Disabilities in Africa: Field Studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia*, Addis Ababa: The African Child Policy Forum)