

Corporal punishment of children in Sierra Leone: Briefing for the Universal Periodic Review, 24th 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 Sierra Leone, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child, the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Human Rights Committee and the Truth and Reconciliation Commission of Sierra Leone.

We hope the Working Group will note with concern the legality of corporal punishment of children in Sierra Leone. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Sierra Leone clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal the right “to administer punishment” in the Prevention of Cruelty to Children Act.

1 Review of Sierra Leone in the 1st cycle UPR (2011) and progress since then

- 1.1 Sierra Leone was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 11). 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 recommendations to promote the rights of the child.³
- 1.2 Prohibiting and eliminating all corporal punishment of children in all settings including the home – through law reform and other measures – is a key obligation under the Convention on the Rights of the Child and other human rights instruments, though it is one frequently evaded by Governments. Since the initial UPR of Sierra Leone in 2011, the Government has been again reminded of its obligation to prohibit corporal punishment of children, including in the home – by the Committee Against Torture (2014),⁴ the Committee on the Elimination of Discrimination Against Women (2014)⁵ and the Human Rights Committee (2014).⁶ However, there appear to have been no moves towards enacting the necessary legislation.

¹ 21 February 2011, A/HRC/WG.6/11/SLE/2, Compilation of UN information, paras. 29 and 53

² 21 February 2011, A/HRC/WG.6/11/SLE/3, Summary of stakeholders' information, para. 24

³ 11 July 2011, A/HRC/18/10, Report of the working group, paras. 80(16), 80(24), 81(17) and 81(18)

⁴ 20 June 2014, CAT/C/SLE/CO/1, Concluding observations on initial report, paras. 27 and 30

⁵ 28 February 2014, CEDAW/C/SLE/CO/6, Concluding observations on sixth report, paras. 28 and 29

1.3 We hope the Working Group will note with concern the legality of corporal punishment of children in Sierra Leone. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Sierra Leone clearly prohibit all corporal punishment of children in all settings including the home and explicitly repeal the right “to administer punishment” in the Prevention of Cruelty to Children Act.

2 Legality and practice of corporal punishment in Sierra Leone

2.1 **Summary:** In Sierra Leone, corporal punishment is unlawful as a sentence for crime but it is lawful in all other settings – the home, alternative care settings, day care, schools and possibly penal institutions.

2.2 **Home (lawful):** Article 3 of the Prevention of Cruelty to Children Act 1926 confirms “the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child”. Despite the recommendations from the Sierra Leone Truth and Reconciliation Commission in 2004 to prohibit corporal punishment in the home and schools (see below, section 4), prohibition was not included in the Child Rights Act 2007. The 2007 Act does not repeal article 3 of the Prevention of Cruelty to Children Act 1926; on the contrary, it confirms the concept of “reasonable” and “justifiable” correction, stating in article 33(2): “No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction.”

2.3 UNICEF’s major analysis of child discipline data from 2005-2006, published in 2010, found that in Sierra Leone 92% of children aged 2-14 were subjected to violent “discipline” (physical punishment and/or psychological aggression) in the month prior to the survey, with a quarter of children being severely physically punished (hit or slapped on the face, head or ears or hit over and over with an implement).⁷

2.4 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings (foster care, institutions, emergency care, places of safety, etc) under the right “to administer punishment” in article 3 of the Prevention of Cruelty to Children Act 1926 and the provision for “reasonable/justifiable correction” in article 33(2) of the Child Rights Act 2007.

2.5 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under the right “to administer punishment” in article 3 of the Prevention of Cruelty to Children Act 1926 and the provision for “reasonable/justifiable correction” in article 33(2) of the Child Rights Act 2007.

2.6 **Schools (lawful):** Corporal punishment is lawful under the right “to administer punishment” in article 3 of the Prevention of Cruelty to Children Act 1926 and the provision for “reasonable/justifiable correction” in article 33(2) of the Child Rights Act 2007. Despite the recommendations of the Sierra Leone Truth and Reconciliation Commission to prohibit corporal punishment in schools (see below, section 4), the Education Act 2004 is silent on the issue.

2.7 **Penal institutions (?unlawful):** The Correctional Services Act 2014 has been passed. We are seeking to verify reports that it prohibits corporal punishment and repeals article 73 of the Prison Rules 1960 and article 57 of the Prison Ordinance 1961, which allow for corporal punishment. The Constitution 1991 states in article 20 that no person shall be subject to inhuman or degrading treatment or punishment but also states: “Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the

⁶ 28 February 2014, CEDAW/C/SLE/CO/6, Concluding observations on sixth report, paras. 28 and 29

⁷ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

law in question authorises the infliction of any kind of punishment which was lawful immediately before the entry into force of this Constitution.”

2.8 **Sentence for crime (*unlawful*)**: Corporal punishment is unlawful under the Child Rights Act 2007, which repeals the Corporal Punishment Act 1960.

3 Recommendations by human rights treaty bodies

- 3.1 **CRC**: The Committee on the Rights of the Child has twice recommended to Sierra Leone that legislation be enacted to explicitly prohibit corporal punishment in all settings, including the family – in its concluding observations on the state party’s initial report in 2000⁸ and on the second report in 2008.⁹
- 3.2. **CAT**: In 2014, the Committee Against Torture acknowledged the prohibition of torture and inhuman and degrading treatment of children in the Sierra Leone Child Rights Act 2007 but expressed concern that it does not explicitly prohibit corporal punishment and that corporal punishment “is culturally entrenched and lawful in all settings, including the home, schools, day care, alternative care settings and in penal institutions”. The Committee recommended explicit prohibition of corporal punishment in all settings.¹⁰
- 3.3 **HRC**: In 2014, the Human Rights Committee noted that the Child Rights Act 2007 in Sierra Leone punishes torture and ill-treatment of children but expressed concern that corporal punishment continues to be used in all settings and that it is not explicitly prohibited by law. The Committee recommended that legislative measures be taken to end corporal punishment in all settings.¹¹
- 3.4 **CEDAW**: In 2007, the Committee on the Elimination of Discrimination Against Women expressed concern at the acceptability of physical chastisement of family members in Sierra Leone and recommended a comprehensive approach to deal with all forms of violence against women, though did not make a specific recommendation on corporal punishment.¹² In 2014, the Committee expressed concern at corporal punishment in schools and recommended its explicit prohibition in all settings.¹³

4 Recommendations by the Truth and Reconciliation Commission

4.1 In 2004, the Truth and Reconciliation Commission expressed considerable concern about corporal punishment of children and made strong recommendations for its prohibition. For the information of the Working Group of the Universal Periodic Review, we reproduce here the Commission’s remarks and recommendations on the issue (emphasis added):¹⁴

“Every person has the right not to be treated or punished in a cruel, inhuman or degrading way. In particular every child has the right to be protected from maltreatment, neglect, abuse or degradation.

“Children suffered gross physical abuse at the hands of adults in the Sierra Leonean conflict. Children are still subject to institutional physical abuse through the use of corporal punishment at schools and in homes. The government school system that arose in the days of colonial rule

⁸ 24 February 2000, CRC/C/15/Add.116, Concluding observations on initial report, paras. 34, 35, 46 and 47

⁹ 20 June 2008, CRC/C/SLE/CO/2, Concluding observations on second report, paras. 35 and 36

¹⁰ [May 2014], CAT/C/SLE/CO/1 Advance Unedited Version, Concluding observations on initial report, paras. 27 and 30

¹¹ [April 2014], CCPR/C/SLE/CO/1 Advance Unedited Version, Concluding observations on initial report, para. 19

¹² 11 June 2007, CEDAW/C/SLE/CO/5, Concluding observations on initial/second/third/fourth/fifth report, paras. 24 and 25

¹³ 28 February 2014, CEDAW/C/SLE/CO/6, Concluding observations on sixth report, paras. 28 and 29

¹⁴ *Witness to Truth: Report of the Sierra Leone Truth & Reconciliation Commission*, Vol. 2, paras. 88-93

adopted nineteenth-century British traditions of school discipline, including that of beating children.

“Corporal punishment is inflicted with the intention of causing physical pain and humiliation. The use of beatings for purposes of correcting behaviour in schools legitimises violence as a means to control behaviour more generally. This message goes out to both children and adults. The message says that hurting others is acceptable behaviour. The consequence of corporal punishment is to encourage physical aggression throughout society.

“Many children are left with physical and psychological scars as a result of corporal punishment. For some children, physical scars and disabilities remain a life-long reminder of the educational system’s brutality. Children are entitled to receive education in an environment of freedom and dignity, free from fear.

“Children are the future of Sierra Leone. There is no justification for permitting another generation of children to be subjected to brutality, whether this is in the name of education or ideology. ***The Commission recommends the outlawing of corporal punishment against children, whether this be in schools or the home. This is an imperative recommendation.***

“The criminal law of Sierra Leone should be amended so as to declare that it shall not be a defence to a charge of assault to say force was used against a child for the purposes of discipline. This is an imperative recommendation.”

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 in 2011 began briefing the Committee on the Rights of Persons with Disabilities.