

# Corporal punishment of children in Sierra Leone

LAST UPDATED March 2020

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Child population 3,166,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

## Sierra Leone's commitment to prohibiting corporal punishment

Sierra Leone expressed its commitment to prohibiting all corporal punishment of children by accepting the recommendations to do so made during the Universal Periodic Review of Sierra Leone in 2016.

## Summary of necessary legal reform to achieve full prohibition

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

The Prevention of Cruelty to Children Act 1926 confirms the right of parents, teachers and others to “administer punishment” to a child (art. 3); the Child Rights Act 2007 confirms the concept of “reasonable” and “justifiable” correction (art. 33(2)). The near universal acceptance of a certain degree of violence in childrearing necessitates clarity in law that no degree of corporal punishment is acceptable or lawful. These articles should be repealed and prohibition of all corporal punishment should be enacted in relation to parents and all those with parental authority.

*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).

*Schools* – All legal provisions authorising the use of corporal punishment in schools should be repealed and prohibition enacted in relation to all education settings, public and private.

## Current legality of corporal punishment

### Home

Corporal punishment is lawful in the home. Article 3 of the Prevention of Cruelty to Children Act 1926 states: “Nothing in this Ordinance shall be construed to take away or affect the right of any parent, teacher or other person having the lawful control or charge of a child to administer punishment to such child.”

In 2004, the Sierra Leone Truth and Reconciliation Commission recommended prohibition of corporal punishment in the home and schools.<sup>1</sup> Under examination by the UN Human Rights Committee in 2014, the Government stated that corporal punishment of children is unlawful under the Child Rights Act 2007.<sup>2</sup> However, the Act does not repeal article 3 of the Prevention of Cruelty to Children Act 1926. Rather, 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.”

Provisions against violence and abuse in the Prevention of Cruelty to Children Act 1926, the Children and Young Persons Act, the Constitution 1991, the Offences Against the Person Act 1861, the Domestic Violence Act 2007 and the Child Rights Act 2007 are not interpreted as prohibiting all corporal punishment of children. The Persons with Disability Act 2011 is silent on the issue.

The Constitution is under review: the process was launched in July 2013 and was expected to be completed by March 2015,<sup>3</sup> but the process was largely suspended during the ebola virus outbreak and is now expected to be completed by 2019/2020.<sup>4</sup> The review is in part informed by the recommendations of the Truth and Reconciliation Commission, published in 2004. The Commission recommended that corporal punishment of children be prohibited in the home and schools (see extract below); it is also building on the previous constitutional review in 2008, which similarly considered the recommendations of the Truth and Reconciliation Committee but did not recommend prohibition of corporal punishment.<sup>5</sup>

The Government reported during its Universal Periodic Review in 2016 that the newly established Children’s Commission is “pursuing the elimination of corporal punishment”.<sup>6</sup> The Government accepted the recommendation made to prohibit corporal punishment of children “in all circumstances”.<sup>7</sup> At the 30<sup>th</sup> session of the African Committee of Experts on the Rights and Welfare of the Child in December 2017, the Government stated that the Child Rights Act 2007 would soon be reviewed which would provide an opportunity to repeal the defence to the use of corporal punishment. The review is due to take place after the March 2019 elections.

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<sup>1</sup> *Witness to Truth: Report of the Sierra Leone Truth & Reconciliation Commission*, Vol. 2, paras. 88-93

<sup>2</sup> 17 March 2014, CCPR/C/SR.3040, Summary record of 3040<sup>th</sup> meeting, para. 30

<sup>3</sup> [www.constitutionalreview.gov.sl/site/PublicConsultation/faqs.aspx](http://www.constitutionalreview.gov.sl/site/PublicConsultation/faqs.aspx), accessed 12 November 2014

<sup>4</sup> 17 November 2015, A/HRC/WG.6/24/SLE/1, National report to the UPR, paras. 5, 9 and 10

<sup>5</sup> *Report of the Commission to Review the Constitution of Sierra Leone, 1991* (“the Peter Tucker report”), January 2008

<sup>6</sup> 14 April 2016, A/HRC/32/16, Report of the working group, para. 19

<sup>7</sup> 14 April 2016, A/HRC/32/16, Report of the working group, para. 111(77); 22 June 2016, A/HRC/32/16/Add.1, Report of the working group: Addendum, para. 9

## **Alternative care settings**

Corporal punishment is lawful in alternative care settings under the right “to administer punishment” in article 3 of the Prevention of Cruelty to Children Act 1926 and the provisions for “reasonable” and “justifiable” correction in article 33(2) of the Child Rights Act 2007.

## **Day care**

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 provisions for “reasonable” and “justifiable” correction in article 33(2) of the Child Rights Act 2007.

## **Schools**

Corporal punishment is lawful in schools under the right “to administer punishment” in article 3 of the Prevention of Cruelty to Children Act 1926 and the provisions for “reasonable” and “justifiable” correction in article 33(2) of the Child Rights Act 2007. It should reportedly be inflicted by the principal only or by female teachers on girls, but we have been unable to identify specific legislation or regulations governing how it is administered. Despite the recommendations of the Sierra Leone Truth and Reconciliation Commission to prohibit corporal punishment in schools, the Education Act 2004 is silent on the issue.

In 2013, under examination by the Committee on the Elimination of Discrimination Against Women, the Government stated that legislation permitting corporal punishment in schools had been repealed in 2007 but that parents and teachers were “still entitled to use ‘reasonable’ discipline methods”.<sup>8</sup>

Reporting to the Committee on the Rights of the Child in 2016, the Government declared that the 2009 Code of Conduct for Teachers and Other Education Personnel prohibited the use of all forms of corporal punishment in schools.<sup>9</sup> Article 2.2.3 of the Code of Conduct states that “teachers and other education personnel shall establish and maintain zero tolerance for all forms of ... physical and humiliating forms of punishment” and that “positive methods of corrective discipline” must be employed. Although the apparent aim of the text is to eliminate the use of corporal punishment, no explicit prohibition is included. In addition, the Code of Conduct is policy, not law. As such it is undermined by the above legislative provisions providing legal defences for the use of corporal punishment against children, and does not achieve equal legal protection for children from assault in schools.

Sierra Leone endorsed the Safe to Learn call to action in 2019: this includes a commitment to prohibit corporal punishment in schools and promote positive discipline.

## **Penal institutions**

Corporal punishment is unlawful under the Correctional Services Act 2014. 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

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<sup>8</sup> 28 February 2014, CEDAW/C/SR.1200, Summary record of 1200<sup>th</sup> meeting, para. 20

<sup>9</sup> 22 September 2016, CRC/C/SLE/Q/3-5/Add.1, Replies to the list of issues on third/fifth reports, para. 24

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

### **Sentence for crime**

Corporal punishment is unlawful as a sentence for crime under the Child Rights Act 2007, which repeals the Corporal Punishment Act 1960. There is no provision for corporal punishment as a sentence in the Local Courts Act 2011.

### **Universal Periodic Review of Sierra Leone’s human rights record**

Sierra Leone was examined in the first cycle of the Universal Periodic Review in 2011 (session 11). No recommendations were made concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:<sup>10</sup>

“Strengthen actions to promote and protect rights of women and child (Bangladesh);

“Strengthen measures of prevention and fight against phenomena affecting the rights of the children, particularly child labour and violence against children (Morocco);

“Maintain efforts to promote and protect the rights of children, young people, persons with disabilities and women, and seek to overcome the low representation of women (Cuba);

“Implement further policies to ensure gender equality and the promotion of the rights of women and children throughout society (South Africa)”

Examination in the second cycle took place in 2016 (session 24). During the review, the Government stated that the Children’s Commission was “pursuing the elimination of corporal punishment”.<sup>11</sup> The following recommendation was made:<sup>12</sup>

“Step up its efforts to combat discrimination against women and prohibit corporal punishment of children in all circumstances (Tunisia)”

The Government accepted the recommendation.<sup>13</sup>

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

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

(1 November 2016, CRC/C/SLE/CO/3-5, Concluding observations on third/fifth report, para. 17)

“In the light of 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 explicitly implement the prohibition of corporal punishment in all settings, as recommended in the Code of Conduct for Teachers and Other Education Personnel (2009), especially at home, in schools and in alternative care settings and detention institutions. The Committee recommends that the

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

<sup>11</sup> 4 February 2016, A/HRC/WG.6/24/L.13 Unedited Version, Draft report of the working group, para. 19

<sup>12</sup> 29 January 2016, A/HRC/WG.6/24/L.13 Unedited Version, Draft report of the working group, para. 5(77)

<sup>13</sup> 22 June 2016, A/HRC/32/16/Add.1, Report of the working group: Addendum, para. 9

State party strengthen its awareness-raising programmes, including campaigns among parents and relevant professional groups, on alternative methods of discipline, raise awareness of parents and children on the Code of Conduct and strengthen and enforce sanctions to make teachers and all personnel working with children accountable for violating the Code.”

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

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

“The Committee notes with appreciation that the Child Rights Act repeals the Corporal Punishment Act, under which boys under age 17 could receive up to 12 lashes as punishment, and that corporal punishment had not been judicially applied for several years. However, the Committee is concerned that corporal punishment is not prohibited and, in fact, is widely practiced in homes, schools or alternative care contexts and detention centres.

“The Committee recommends that the State party ensure the full implementation of the Child Rights Act and that it explicitly prohibit by law all forms of violence against children, including corporal punishment, in all settings, including in the family, schools, alternative childcare and places of detention for juveniles, and implement those laws effectively. The Committee also recommends that the State party intensify its awarenessraising campaigns in order to promote the use of alternative forms of discipline in a manner consistent with the child’s human dignity and in accordance with the Convention, especially article 28, paragraph 2, taking into account the Committee’s general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.”

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

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

“While the Committee is encouraged by the exclusion of girls from the application by domestic courts of corporal punishment sentences, the Committee nevertheless considers this provision to be discriminatory between boys and girls.

“The Committee urges the State party to extend the prohibition of State sanctioned corporal punishment to boys.

“The Committee is concerned that corporal punishment is widely practised in the State party and that, in particular, it is used in the sentencing of boys under the age of 17 by domestic courts.

“In the light of articles 19, 28 (2) and 37 (a) of the Convention, the Committee urges the State party to take legislative and educative measures to prohibit the use of corporal punishment by the courts, all public officials and in schools, and to consider the prohibition of its use in the family.”

### ***Committee Against Torture***

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

“The Committee is highly concerned at information indicating that cases of violence and deaths in custody have not been sufficiently investigated, including the death in custody of Lamin Kamara, allegedly as a consequence of torture. The Committee is also concerned at the alleged use of corporal punishment and solitary confinement for prisoners, as permitted by the Prison Ordinance Act of 1960 and the Prison Rules of 1961, as well as reduction in diet and the use of handcuffs and other means

of restraint as a punishment (arts. 2, 11 and 16).

The State party should:

a) ensure that the Correctional Services Bill, aimed at replacing the Prison Ordinance Act of 1960 and the Prison Rules of 1961, is promptly adopted and complies with the commitment taken by the State delegation to eliminate corporal punishment and solitary confinement....

“While acknowledging that the current Correctional Services Bill includes the prohibition of corporal punishment in prisons and section 33 of the Child Rights Act 2007 prohibits torture and inhuman and degrading treatment of children, the Committee is concerned that corporal punishment has not yet been explicitly prohibited in the Child Rights Act or any other act in force and is culturally entrenched and lawful in all settings, including the home, schools, day care, alternative care settings and in penal institutions (art. 16).

The Committee reminds the State party of the commitment it made during the dialogue with the Committee and recommends that it take the necessary legislative measures to explicitly prohibit corporal punishment in all settings, conduct public awareness-raising campaigns about its harmful effects, and promote positive nonviolent forms of discipline as an alternative to corporal punishment.”

### ***Committee on the Elimination of Discrimination Against Women***

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

“The Committee expresses its concern about: ...

e) the continued practice of corporal punishment in schools.

“The Committee recommends that the State party: ...

e) explicitly prohibit corporal punishment in all settings.”

### ***Committee on the Elimination of Discrimination Against Women***

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

“While welcoming the domestic violence bill of 2006, the Committee is deeply concerned about the high levels of violence against women, including rape and sexual assault. The Committee is particularly concerned about the persistence of customary law and cultural practices that consider the physical chastisement of family members, in particular women, acceptable....

“The Committee urges the State party to place the highest priority on implementing a comprehensive approach to address all forms of violence against women, including the speedy enactment and the full implementation of the bill on domestic violence. It encourages the State party to make full use of the Committee’s general recommendation 19 in its efforts to address violence against women. It urges the State party to raise public awareness through media and education programmes that all forms of violence against women, including domestic violence, are unacceptable....”

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

(17 April 2014, CCPR/C/SLE/CO/1, Concluding observations on initial report, para. 19)

“While taking note of the fact that the Child Rights Act (2007) criminalizes and punishes torture and ill-treatment of children, the Committee expresses concern about the continuing practice of corporal punishment in all settings, and that it is not explicitly prohibited by law (arts. 7 and 24).

The State party should take practical steps, including through legislative measures where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment, and should conduct public information campaigns to raise awareness about its harmful effects.”

### ***African Committee of Experts on the Rights and Welfare of the Child***

([December 2017], Concluding observations on initial report, para. 20)

“The Committee notes with appreciation the various legislative measures taken to protect children from abuse and torture. However, sources of the Committee indicate that various forms of violence, including physical, physiological and sexual abuse, are still being perpetrated against children. In particular, the Committee was informed that corporal punishment is prevalent within the home and school settings. During the Constructive dialogue with the State Party, the Committee has also observed that the Child Rights Act tolerates reasonable punishment being perpetrated against children; the Committee recommends the State Party to repeal the relevant clause in the Act with a view to completely prohibit corporal punishment in all settings.”

### ***Truth and Reconciliation Commission of Sierra Leone***

(*Witness to Truth: Report of the Sierra Leone Truth & Reconciliation Commission*, Vol. 2, 2004, paras. 88-93)

“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 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.”

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

According to statistics collected in 2010 under round 4 of the UNICEF Multiple Indicator Cluster Survey programme (MICS4), 81.7% of children aged 2-14 experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in the month prior to the survey. Sixty-five per cent experienced physical punishment, 18.8% severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement) and 74.4%% psychological aggression (being shouted at, yelled at, screamed at or insulted).

(Statistics Sierra Leone & UNICEF-Sierra Leone (2011), *Sierra Leone Multiple Indicator Cluster Survey 2010, Final Report*, Freetown: Statistics Sierra Leone & UNICEF-Sierra Leone)

In a study in which children investigated school violence (20 children collected data from 1,600 school children over a period of four months) 75% of children reported having been hit by a teacher in the month preceding the survey. The study found compelling evidence that levels of abuse (corporal punishment, bullying and sexual abuse) are very high and require immediate and urgent action from all authorities concerned.

(Bangura, K. (2009), *Reporting on Documentation by Children on Violence against Children in School: Results of Four Months Surveys Conducted by Children* (Report commissioned by Plan Sierra Leone)