

Corporal punishment of children in Rwanda: Briefing for the Universal Periodic Review, 23rd session, 2015

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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 Rwanda, 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 Economic, Social and Cultural Rights and during the 1st cycle UPR of Rwanda (which the Government accepted).

We hope the Working Group will note with concern the legality of corporal punishment of children in Rwanda. We hope states will raise the issue during the review in 2015 and make a specific recommendation that Rwanda clearly prohibit all corporal punishment of children in all settings including the home and repeal the “right of correction” in the Civil Code.

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

1.1 Rwanda was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 10). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders’ information.² The following recommendation was made and was accepted by the Government:³

“Introduce legislation explicitly prohibiting corporal punishment and promote alternative, non-violent forms of discipline (Azerbaijan)”

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 Rwanda in 2011, new laws have been adopted and/or have come into force, including Law No. 54 Relating to the Rights and Protection of the Child 2011 (in force 2012) and the Penal Code 2012, but these do not prohibit all corporal punishment of children.

¹ 11 November 2010, A/HRC/WG.6/10/RWA/2, Compilation of UN information, para. 26

² 4 November 2010, A/HRC/WG.6/10/RWA/3, Summary of stakeholders' information

³ 14 March 2011, A/HRC/17/4, Report of the working group, para. 78(9)

2 Legality of corporal punishment in Rwanda

- 2.1 **Summary:** In Rwanda, corporal punishment of children is unlawful in schools and the penal system but it is not fully prohibited in the home, alternative care settings and day care.
- 2.2 **Home (lawful):** Parents have a “right of correction” under article 347 of the Civil Code 1988. The National Integrated Child Rights Policy, adopted by the Ministry of Gender and Family Promotion in 2011 and intended as a guide for legislation, states that “physical abuse, including torture and cruelty against children and corporal punishment of children is prohibited in all settings” and defines all settings as including “homes, communities, schools, all centres and institutions that have children, prisons and detention centres, etc”.⁴ And in reporting to the Committee on the Rights of the Child and to the Committee on Economic, Social and Cultural Rights in 2013, the Government stated that corporal punishment is prohibited in all settings, including the home.⁵ However, law reform in 2012 failed to achieve complete prohibition.
- 2.3 Article 25 of Law No. 54 Relating to the Rights and Protection of the Child 2011 (in force 2012) states that parents should reprimand a child with humanity and dignity and must not “traumatise” the child; it also provides for the Minister to make an order specifying “non-violent disciplinary punishments, care and treatments for the child”. But the Law does not explicitly prohibit all corporal punishment: it includes in the definition of violence and domestic mistreatment only “excessive” physical punishment. Furthermore, the Law does not repeal the right of correction: rather, it states that the new law is pursuant to the Civil Code.
- 2.4 The Penal Code 2012 punishes “any person who inflicts severe suffering on a child, harassing or imposing severe or degrading punishments on him/her” (art. 218) and includes a number of provisions relating to assault and battery (arts. 148-152) but it does not explicitly prohibit all corporal punishment, however light, and does not repeal the above mentioned right of correction from the Civil Code.
- 2.5 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment. The Penal Code 2012 and Law No. 54 Relating to the Rights and Protection of the Child 2011 protect children from corporal punishment of some severity, but persons with parental authority over children have a “right of correction” as for parents under article 347 of the Civil Code 1988.
- 2.6 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. The Penal Code 2012 and Law No. 54 Relating to the Rights and Protection of the Child 2011 protect children from corporal punishment of some severity, but persons with parental authority over children have a “right of correction” as for parents under article 347 of the Civil Code 1988.
- 2.7 **Schools (unlawful):** Corporal punishment is considered unlawful, but there appears to be no explicit prohibition. Children are legally protected from “severe” and “excessive” corporal punishment by the Penal Code 2012 and Law No. 54 Relating to the Rights and Protection of the Child 2011. A draft Ministerial Decree on general regulation of preschool, primary and secondary education states that punishment should be commensurate with the age of the child and the severity of the misconduct and aimed at educating the student. The punishment is decided by the Discipline Board of the School and according to the Government’s report to the Committee on Economic, Social and Cultural Rights in 2013 must not include “insults, expulsion, beating or other ill treatment of any kind”. To our knowledge the Decree has not been brought into force.
- 2.8 **Penal institutions (unlawful):** Corporal punishment is considered unlawful in penal institutions but it is not explicitly prohibited. A number of laws prohibit cruel, inhuman or degrading treatment and the Penal Code 2012 and Law No. 54 Relating to the Rights and Protection of the Child 2011

⁴ National Integrated Child Policy 2011, para. 5.5

⁵ [April 2013], CRC/C/RWA/Q/3-4/Add.1, Reply to list of issues, paras. 33, 38-41; [19 April 2013], E/C.12/RWA/2/4/Add.1, Reply to list of issues, para. 77

protect children from “severe” punishment. Article 23 of Law No. 38 establishing the National Prisons Service 2006 states that “the prisoner must be treated with dignity and respect for human rights. He or she is especially protected against any sort of torture, cruel, inhuman or degrading treatment”. Article 15 of Law No. 25 establishing the Local Defence Force 2004 punishes the use of excessive force. Article 8 of the Instructions of the Minister of Internal Security relating to the conditions of detention, the provision of food and detainee visits 2008 (No. 09) states that no prisoner should be subjected to torture or other abuse or cruel, inhuman or degrading treatment.

2.9 **Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in criminal law.

3 Recommendations by human rights treaty monitoring bodies

- 3.1 **CRC:** The Committee on the Rights of the Child has twice recommended to Rwanda that corporal punishment be prohibited in all settings – in its concluding observations on the second report in 2004⁶ and on the second-fourth report in 2013.⁷
- 3.2 **CAT:** In 2012, the Committee Against Torture recommended that Rwanda explicitly prohibit corporal punishment of children in all settings.⁸
- 3.3 **CESCR:** In 2013, the Committee on Economic, Social and Cultural Rights recommended law reform in Rwanda to ensure that the Law No. 54/2001 and the Civil Code prohibit all corporal punishment of children in all settings.⁹

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.

⁶ 1 July 2004, CRC/C/15/Add.234, Concluding observations on second report, paras. 34 and 35

⁷ 8 July 2013, CRC/C/RWA/CO/3-4, Concluding observations on third/fourth report, paras. 27 and 28

⁸ 26 June 2012, CAT/C/RWA/CO/ 1, Concluding observations on initial report, para. 16

⁹ 10 June 2013, E/C.12/RWA/CO/2-4, Concluding observations on second-fourth report, para. 21