

Ending family violence in Rwanda – challenging physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women's 66th session, from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), January 2017

Introduction: violence against children in their homes in Rwanda and CEDAW's examination of the seventh/ninth state party report

Article 347 of the Civil Code gives parents a “right of correction” over their children. Although the Government committed to prohibiting all corporal punishment of children during the Universal Periodic Review in 2011 and again in 2015, law reform has not yet been achieved. The current revisions of the Civil Code, the Penal Code, the Family Code and Law No. 54 relating to the Rights and Protection of the Child 2011 provide an opportunity for achieving the necessary law reform.

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Rwanda. In particular, we hope the Committee will, in its concluding observations on the seventh/ninth state party report, recommend that Rwanda take immediate action to ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation be enacted repealing the legal defence contained in the Civil Code and prohibiting all corporal punishment of children.

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in Rwanda and immediate opportunities for reform
 2. Treaty body and UPR recommendations on the issue made to Rwanda to date.
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1 Laws on the use of force in “correcting” children in Rwanda and immediate opportunities for prohibiting violent punishment of girls and boys

Summary

1.1 In Rwanda, parents and carers retain a “right of correction” over children. This means that children can lawfully be subjected to domestic violence under the guise of discipline. The Government’s commitment to prohibit corporal punishment as well as the current review of the relevant laws provide the opportunity for law reform.

Detail

1.2 Corporal punishment is lawful in the home. Parents have a “right of correction” under article 347 of the Civil Code 1988.

1.3 In 2011, the Government accepted the recommendation made during the Universal Periodic Review of Rwanda to prohibit all corporal punishment of children.¹ The National Integrated Child Rights Policy, adopted by the Ministry of Gender and Family Promotion in the same year 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”.² 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.³ However, law reform in 2012 failed to achieve complete prohibition.

1.4 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.

1.5 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.

1.6 The Government signalled its commitment to prohibiting corporal punishment in all settings and repealing the “right of correction” in the Civil Code by clearly accepting a recommendation to do so made during the Universal Periodic Review of Rwanda in 2015.⁴ In August 2016, the Law No. 32/2016 of 28/08/2016 Governing Persons and Family was passed. The new law does not mention corporal punishment: it does not confirm the right of correction but it does not explicitly repeal it. The Civil Code 1988 is under review. Law No. 54 relating to the Rights and Protection of the Child 2011 and the Penal Code are under review,⁵ as is the Family Code.⁶ In addition, the Ministry of Gender and Family Promotion has drafted a Ministerial Order “specifying the necessary educational measures and other forms of non-violent disciplinary punishments, care and treatments

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

² National Integrated Child Policy 2011, para. 5.5

³ [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

⁴ 18 December 2015, A/HRC/31/8, Report of the working group, par. 134(42)

⁵ Rwanda Men’s Resource Centre, survey response, July 2016; Save the Children survey response, July 2016; see also 27 October 2015, A/HRC/WG.6/23/RWA/1, National report to the UPR, para. 52

⁶ 5 October 2015, CEDAW/C/RWA/7-9, Seventh/ninth report, para. 39

for the child” pursuant to the Constitution (especially arts. 120, 121 and 201⁷) and Law No. 54/2011 relating to the Rights and Protection of the Child (especially art. 25, see above).

1.7 We hope the Committee will urge the state party to ensure that complete prohibition of corporal punishment of children be included in the revised Law on the Rights and Protection of the Child and that the “right of correction” provided for in the Civil Code be repealed.

2 Recommendations by human right treaty monitoring bodies and during the Universal Periodic Review

2.1 **CRC:** The Committee on the Rights of the Child has twice recommended prohibition of all corporal punishment in Rwanda – following examination of the state party’s second report in 2004 and the third/fourth report in 2013.⁸

2.2 **CAT:** In 2012, the Committee Against Torture recommended corporal punishment of children be explicitly prohibited in all settings in Rwanda.⁹

2.3 **CESCR:** In 2013, the Committee on Economic, Social and Cultural Rights recommended to Rwanda that Law No. 54/2011 and the Civil Code be amended to abolish all forms of corporal punishment in all settings.¹⁰

2.4 **UPR:** During the Universal Periodic Review of Rwanda in 2011 and in 2015, the Government accepted recommendations to prohibit corporal punishment.¹¹

2.5 **ACERWC:** The Committee recommended in 2015 that the state repeal the “right of correction” defence.¹²

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⁷ The draft appears to have been prepared before the Constitution was revised in 2015

⁸ 1 July 2004, CRC/C/15/Add.234, Concluding observations on second report, paras. 34 and 35; 8 July 2013, CRC/C/RWA/CO/3-4, Concluding observations on third/fourth report, paras. 27 and 28

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

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

¹¹ 14 March 2011, A/HRC/17/4, Report of the working group, para. 78(9); 18 December 2015, A/HRC/31/8, Report of the working group, par. 134(42)

¹² [July 2015], ACERWC, Concluding observations on second/third report, paras. 19 and 20