1 The human rights obligation to prohibit corporal punishment

1.1 The legality and practice of corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity and to equal protection under the law, and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment – rights guaranteed in the International Covenant on Civil and Political Rights and other international human rights instruments.

This briefing describes the legality of corporal punishment of children in Sierra Leone. In light of the obligation under international human rights law to prohibit all corporal punishment of children, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations to Sierra Leone by the UN treaty monitoring bodies and the Government’s acceptance of relevant recommendations made during the Universal Periodic Review in 2011, we hope the Human Rights Committee will:

- raise the issue of corporal punishment of children in its List of Issues for Sierra Leone, in particular asking what measures are being taken to ensure that corporal punishment is prohibited in all settings including the home, and
- recommend to Sierra Leone that legislation is enacted to prohibit corporal punishment in all settings, including the home, as a matter of priority, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.
2 Legality and practice of corporal punishment of children in Sierra Leone

2.1 Corporal punishment of children in Sierra Leone is unlawful as a sentence for crime but it is lawful in all other settings – the home, schools, penal institutions and care settings.

2.2 Home (lawful). 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. However, the Child Rights Act 2007 does not repeal article 3 of the Prevention of Cruelty to Children Act 1926; 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 in 2010 found that 92% of 2-14 year olds in Sierra Leone experienced violent “discipline” (physical punishment and/or psychological aggression) in the home in 2005-2006; a quarter experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement).  

2.4 Schools (lawful). Corporal punishment is lawful under article 3 of the Prevention of Cruelty to Children Act 1926 and article 33(2) of the Child Rights Act 2007 (see above). 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.

2.5 Penal system – sentence for crime (unlawful). Corporal punishment is unlawful under the Child Rights Act 2007, which repeals the Corporal Punishment Act 1960.

2.6 Penal system – disciplinary measure in penal institutions (lawful). There is no explicit prohibition of corporal punishment in penal institutions. It is presumably lawful under article 3 of the Prevention of Cruelty to Children Act 1926 and article 33(2) of the Child Rights Act 2007 potentially apply (see above).

2.7 Alternative care settings (lawful). Corporal punishment is lawful under article 3 of the Prevention of Cruelty to Children Act 1926 and article 33(2) of the Child Rights Act 2007 (see above).

3 Recommendations by human rights treaty monitoring bodies and during the Universal Periodic Review

3.1 The Committee on the Rights of the Child has twice recommended 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 2000\(^2\) and on the second report in 2008.\(^3\)

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\(^2\) 24 February 2000, CRC/C/15/Add.116, Concluding observations on initial report, paras. 34, 35, 46 and 47

\(^3\) 20 June 2008, CRC/C/SLE/CO/2, Concluding observations on second report, paras. 35 and 36
3.2 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 Government accepted a number of recommendations to protect and promote the rights of children.4

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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4 11 July 2011, A/HRC/18/10, Report of the working group, paras. 80(16), 80(24), 81(17) and 81(18)