

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



Information for the Committee on the Elimination of Discrimination Against Women, Pre-Sessional Working Group for the 68th 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 Burkina Faso and CEDAW's examination of the seventh state party report

There is a “right of correction of parents toward their children” in Burkina Faso, although it is not explicitly recognised in the statutes. Prior to the political crisis in 2014, a Child Protection Code was under discussion which would have prohibited all corporal punishment. The current reviews of the Criminal Code and the Personal and Family Code also provide opportunities for 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 Burkina Faso. In particular, we hope the Committee will:

- **in its list of issues for Burkina Faso, ask the Government what progress is being made towards the adoption of the draft Child Protection Code and the repeal of the “right of correction”, and**
- **in its concluding observations on the seventh state party report, recommend that Burkina Faso 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 is enacted prohibiting all corporal punishment of children in all settings, including through the explicit repeal of the “right of correction”.**

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in Burkina Faso and immediate opportunities for reform
 2. Treaty body and UPR recommendations on the issue made to Burkina Faso to date.
-

1 Laws on the use of force in “correcting” children in Burkina Faso and immediate opportunities for prohibiting violent punishment of girls and boys

Summary

1.1 In Burkina Faso, children can lawfully be subjected to domestic violence by their parents and carers under the guise of “correction”. This means that children are awarded less protection in the home than their adult relatives. Current review of the Criminal Code and the Personal and Family Code, as well as the draft Child Protection Code, provide the opportunity for law reform.

Detail

1.2 Corporal punishment is lawful in the home. The Government has confirmed that the law recognises a “right to correction of parents towards their children” (“le droit de correction des parents à l’égard de leurs enfants”),¹ though it would appear that this “right” is not explicitly confirmed in criminal or civil law (information unconfirmed). Provisions against violence and abuse in the Children’s Code 2006 – a compilation of laws relating to children – are not interpreted as prohibiting corporal punishment in childrearing. In 2012, the Criminal Code and the Code on the Person and the Family were under review.

1.3 During the Universal Periodic Review of Burkina Faso in 2013, the Government repeatedly asserted that corporal punishment is prohibited in all settings, including the home,² contradicting the information provided to the African Committee in 2012 (see above). The Government then accepted the recommendation made during the review to implement legislation against corporal punishment but rejected the recommendation to prohibit it in all settings.³

1.4 In May 2014, the National Assembly passed the Law on Protection of Children in Conflict with the Law or in Danger 2014.⁴ The Law does not prohibit corporal punishment. A draft Child Protection Code was under discussion which would have prohibited corporal punishment in all settings, stating in article 220 (unofficial translation): “Physical punishment at home, at school, in the street or in other institutions is prohibited with respect to the child. Corporal punishment means any physical punishment inflicted on children by parents, teachers or others, by means of blows or injuries, mutilation, imprisonment, marking, shaving hair or other violent, humiliating and degrading ways.” Articles 221 and 222 provided sanctions for perpetrators of corporal punishment. As at May 2014, the process of this law reform had been suspended: we are seeking further information.

1.6 We hope the Committee will raise the issue of corporal punishment of children in its review of Burkina Faso, and remind the state party of its international obligations. We further hope that the Committee will recommend that the Government immediately enact legislation explicitly prohibiting corporal punishment of children in all settings.

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 expressed concern at corporal punishment of children in Burkina Faso and recommended that it be prohibited in the home and all other settings – in concluding observations on the state party’s second report in 2002⁵ and on the third/fourth report in 2010.⁶

¹ Second/third state party report to the African Committee of Experts on the Rights and Welfare of the Child, 2012, para. 68

² 8 July 2013, A/HRC/24/4, Report of the working group, paras. 18 and 66

³ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 135(106) and 138(6)

⁴ Loi No. 015-2014/AN portant protection de l’enfant en conflit avec la loi ou en danger

⁵ 9 October 2002, CRC/C/15/Add.193, Concluding observations on second report, paras. 36, 37 and 51

⁶ 29 January 2010, CRC/C/BFA/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 40 and 41

- 2.2 **CAT:** In 2014, the Committee Against Torture expressed concern at corporal punishment of children in their homes in Burkina Faso and recommended this be addressed by law reform and awareness raising.⁷
- 2.3 **ACERWC:** In 2010, the African Committee of Experts on the Rights and Welfare of the Child raised the issue of corporal punishment in its examination of Burkina Faso and recommended that measures be strengthened to eradicate it, particularly in schools.⁸
- 2.4 **UPR:** Recommendations were made concerning corporal punishment during the Universal Periodic Review of Burkina Faso in 2013. While the Government accepted a recommendation to implement existing law, it rejected the recommendation to prohibit corporal punishment in all settings including the home and care settings.⁹

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org, January 2017

⁷ 2 January 2014, CAT/C/BFA/CO/1, Concluding observations on initial report, para. 22

⁸ Concluding observations on the initial report of Burkina Faso, 2010

⁹ 8 July 2013, A/HRC/24/4, Report of the working group, paras. 135(106) and 138(6)