

Ending family violence in Liberia – confronting physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), September 2015

Introduction: family violence in Liberia and CEDAW’s examination of the seventh/eighth state party report

Violent punishment of children has a long and deep rooted history of social and legal acceptance. Even to this day, unless it is severe it is not readily perceived as “violence” per se or as an assault on a child’s human dignity. Except in states where it has been explicitly challenged through law reform and public education and awareness raising, it remains taken for granted in childrearing. For all these reasons, unless the law sends a clear message that all physical punishment, however light, is prohibited, it will continue to be considered lawful. In Liberia, recent law reform has strengthened protection from violence for children, including the girl child, but still there is no clear prohibition of corporal punishment in the home: adults must not assault one another but they can – and do – assault their children in the name of “discipline”.

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 Liberia. In particular, we hope the Committee will:

- **in its concluding observations on the seventh/eighth state party report, recommend that Liberia ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation is enacted to prohibit domestic violence against all family members, including clear prohibition of all physical punishment of children.**

The remainder of this briefing provides the following further details:

1. Information provided to CEDAW by Liberia in respect of corporal punishment
2. The current law relating to family violence and corporal punishment of children in Liberia and immediate opportunities for reform
3. Treaty body and UPR recommendations on the issue made to Liberia to date.

1 Information provided by Liberia to CEDAW in respect of corporal punishment

- 1.1 Liberia’s seventh/eighth state party report describes efforts by Government and civil society to combat violence against women, including the development of a Domestic Violence Law which is said to be a response to the Committee’s call for “a comprehensive legal framework that will address violence against women and children”.¹ The report makes no specific reference to corporal punishment of children – violence which may lawfully be inflicted on girls and boys in the home and in other settings.
- 1.2 The list of issues for Liberia adopted by the Committee asks whether the bill on domestic violence

¹ 10 April 2014, CEDAW/C/LBR/7-8, Seventh/eighth state party report, pp. 14-15

“includes comprehensive definitions and explicit criminalization of domestic violence”.² It also asks for information on “mechanisms to address incidents or harassment, abuse or violence” in schools.³ At the time of preparing this briefing the Government’s replies to the list of issues are not available. We hope that in pursuing these questions in the examination of the Government delegation, the Committee will take account of the importance of clear prohibition of all corporal punishment in the home and in schools if girls and women are truly to be protected from domestic violence and from violence in education settings.

2 Laws on domestic violence and corporal punishment of children in Liberia and immediate opportunities for prohibiting violent punishment of girls and boys

Summary

2.1 In Liberia, legal reform in recent years has strengthened prevention of and protection from violence for children, but it has so far failed to prohibit all violent punishment at the hands of their parents: the promotion of homes free from violence continues to be undermined by an inadequate legislative framework. A domestic violence bill is under discussion which provides an immediate opportunity for enacting clear prohibition of corporal punishment and explicitly repealing the right to use disciplinary force and “justifiable correction” in childrearing.

Detail

2.2 It is lawful for girls and boys to be subjected to physical punishment in the home. Article 5(8.1) of the Penal Code 1976, entitled “Use of force by persons with special responsibility for care, discipline, or safety of others”, states: “Parent, guardian or teachers. The use of force upon or toward the person of another is justifiable if the actor is the parent, guardian, or other person responsible for the care and supervision of a minor under eighteen years old or teacher or other person responsible for the care and supervision of such a minor for a special purpose, or a person acting at the direction of any of the foregoing persons, if the force is used for the purpose of safeguarding or promoting his welfare including prevention and punishment of his misconduct, and the maintenance of proper discipline. The force used for these purposes must not be designed to cause or known to create a substantial risk of causing death, serious bodily injury, disfigurement or degradation.”

2.3 The Children’s Law 2011 provides limited protection from violent childrearing but does not make all corporal punishment unlawful or repeal the provisions for the use of force in article 5 of the Penal Code 1976. Article 4(1.3) states that “every parent shall have an equal duty with a co-parent to: ... (g) respect the child’s dignity and refrain from administering domestic discipline that violates such dignity or adversely affects the psychosocial or physical well-being of any child living in the household”. However, it does not explicitly prohibit all corporal punishment, and article 7(7) allows for “justifiable” corporal punishment, stating: “(1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment. (2) Any correction or punishment of a child shall be justifiable for the child concerned. (3) No correction of a child is justifiable for any child if it is unreasonable in kind or in degree relative 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 and fairness of the correction. (4) The Ministry of Gender and Development shall progressively facilitate parental guidance programs aimed at developing the capacity of parents to discipline and guide their children without use of any form of violence.”

2.4 There is an ongoing process of reviewing national laws so as to comply with international and regional human rights standards. The Constitution 1986 is being reviewed and public consultations on Constitutional Reform commenced in March 2014; the work of the Constitution Review

² 16 March 2015, CEDAW/C/LBR/Q/7-8, List of issues, para. 9

³ 16 March 2015, CEDAW/C/LBR/Q/7-8, List of issues, para. 15

Committee is expected to be completed in 2016.⁴ A Domestic Violence Bill is under discussion, which the Government has said will domesticate the provisions of the Convention on the Rights of the Child.⁵

2.5 Protecting children from violent punishment in the home in Liberia requires clear prohibition of all corporal punishment. A draft new domestic violence law is under discussion: this provides a key opportunity for explicitly prohibiting corporal punishment of children by parents and thereby sending a clear message that the family home is a place where no form of violence is tolerated.

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

3.1 Liberia has received recommendations concerning prohibition and elimination of corporal punishment of children from the Committee on the Rights of the Child (2012, 2004)⁶ and the African Committee of Experts on the Rights and Welfare of the Child (2014).⁷ A recommendation to abolish corporal punishment was also made during the Universal Periodic Review of Liberia in 2015:⁸ the Government's response is pending.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
www.endcorporalpunishment.org; info@endcorporalpunishment.org
September 2015

⁴ 18 February 2015, A/HRC/WG.6/22/LBR/1, National report to the UPR, para. 21

⁵ *ibid.*, para. 20

⁶ 11 December 2012, CRC/C/LBR/CO/2-4, Concluding observations on second-fourth report, paras. 44 and 45; 1 July 2004, CRC/C/15/Add.236, Concluding observations on initial report, paras. 42 and 43

⁷ ([April 2014], ACERWC, Concluding observations on initial report, pp. 5-6

⁸ 6 May 2015, A/HRC/WG.6/22/L.2 Unedited Version, Draft report of the working group, para. 5(149)