

**BRIEFING ON KUWAIT FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 115th session (Oct/Nov 2015)**

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**This briefing describes the legality of corporal punishment of children in Kuwait. 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, and the recommendations to Kuwait by the Committee on the Rights of the Child and during the UPR (accepted by the Government), we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Kuwait, in particular asking what measures have been taken towards enacting explicit prohibition of corporal punishment of children in the home and all other settings in Kuwait, and**
* **recommend, in the concluding observations on the third report, that clear prohibition of all corporal punishment of children, including in the home, and repeal of the “right to discipline” in the Criminal Code be enacted as a matter of urgency, together with appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

**1 Kuwait’s report to the Human Rights Committee**

1.1 Kuwait’s third state party report to the Human Rights Committee (CCPR/C/KWT/3) addresses cruel and inhuman treatment in relation to prisons but it makes no reference to corporal punishment of children, despite the fact that it is lawful in the home and some other settings and that it has been raised as an issue in Kuwait in both first and second cycles of the Universal Periodic Review.

1.2 The report notes that a comprehensive children’s bill is under discussion, and that this will guarantee the rights set out in the Convention on the Rights of the Child “as a minimum”. This law reform provides a key opportunity for prohibiting corporal punishment of children in the home and all other settings.

**1.3 We hope the Committee will raise the issue of prohibition of corporal punishment of children in its review of Kuwait and recommend that clear prohibition of all corporal punishment of children, including in the home, and repeal of the “right to discipline” in the Criminal Code be included in the comprehensive new child law.**

**2 The legality of corporal punishment of children in Kuwait**

2.1 ***Summary:***In Kuwait, corporal punishment of children is lawful in the home and in alternative care and day care settings; it is prohibited in schools and possibly in the penal system. **The comprehensive bill on the rights of the child currently under discussion provides an immediate opportunity to achieve prohibition in all settings.**

2.2 ***Home (lawful):***Article 29 of the Criminal Code provides for the right of parents to discipline their children. Provisions against violence and abuse in the Criminal Code 1960, the Juveniles Act No. 3 1983, Law No. 413/2009 obliging all physicians to report physical and psychological violence against children, the Personal Status Act No. 51 1984 and the Constitution 1962 are not interpreted as prohibiting corporal punishment in childrearing. In reporting to the Committee on the Rights of the Child, the Government stated that Law No. 9/2010 on the protection of children from violence and exploitation protects children from all types of abuse.[[1]](#footnote-1) We have yet to see the text of this law but indications are that it does not explicitly prohibit all corporal punishment in childrearing.

2.3 A draft new child law is under discussion. In 2013, the Government reported that it included prohibition of cruel, inhuman or degrading treatment by persons with authority over a child, including in the home, schools and institutions.[[2]](#footnote-2) But in 2015, in the context of accepting recommendations to prohibit all corporal punishment made during the Universal Periodic Review of Kuwait, the Government appeared to defend “simple discipline”.[[3]](#footnote-3)

2.4 ***Alternative care settings (lawful):***There is no explicit prohibition of corporal punishment in legislation relating to alternative care settings – including in the Juveniles Act 1983 and the Family Fostering Act No. 82 1977 and the Children’s Nurseries Act No. 111 2000 – and the right of parents to discipline children in article 29 of the Criminal Code 1960 applies to all with parental authority.

2.5 ***Day care (lawful):***Corporal punishment is lawful in early childhood care and in day care for older children. There is no explicit prohibition in law – including in the Juveniles Act 1983 and the Children’s Nurseries Act No. 111 2000 – and the right of parents to discipline children in article 29 of the Criminal Code 1960 applies to all with parental authority.

2.6 ***Schools (unlawful):*** In reporting to the Universal Periodic Review in 2015, the Government stated that the prohibition is included in the School System Regulations, which states in the Preamble that “corporal punishment and hurtful or humiliating remarks are totally inadmissible; a calm, impassive and even-tempered approach must be adopted; penalties should be imposed in a fair and equitable manner and not on the basis of mere suspicion; punishment must be viewed within a proper pedagogic context and should be carefully designed to prevent, correct and remedy unacceptable modes of behaviour; if a student’s personality or educational performance is adversely affected by the imposition of any form of punishment, the school’s psychosociologist must study the case and formulate a remedial course of action”.[[4]](#footnote-4)

2.7 ***Penal institutions (?unlawful):***Corporal punishment is unlawful as a disciplinary measure in penal institutions under the Prison Regulation Act No. 26 1962, though we have yet to establish whether it is explicitly prohibited. There is no explicit prohibition in the Juveniles Act 1983.

2.8 ***Sentence for crime (?unlawful):*** There is no provision for it in the Juveniles Act 1983, the Criminal Code 1960 or the Criminal Procedure Code 1960. Article 31 of the Constitution 1962 prohibits torture and degrading treatment. In 2001 draft legislation was under discussion which would have amended the Criminal Code to comply with Islamic law, including penalties of amputation and flogging. The Code has been amended a number of times since 2001 but it appears that Islamic punishments have not been enacted (unconfirmed).

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 ***CRC:*** Kuwait’s initial report to the Committee on the Rights of the Child was examined in 1998. The Committee expressed concern about corporal punishment and recommended law reform to prohibit it in the family, schools, other institutions and in society generally.[[5]](#footnote-5) These concerns and recommendations were reiterated following examination of the second report in 2013.[[6]](#footnote-6)

3.2 ***UPR:*** During the Universal Periodic Review of Kuwait in 2010, the Government accepted the recommendation to “take appropriate measures and introduce legislation which would prohibit corporal punishment of children”.[[7]](#footnote-7) In the second cycle review in 2015, a number of recommendations were made to prohibit corporal punishment of children in all settings.[[8]](#footnote-8) The Government accepted the recommendations but in doing so appeared to defend some level of violent punishment of children, stating that “the authority of the guardian in the simple discipline in accordance with article 6 of the Child Rights Act” (unofficial translation).[[9]](#footnote-9)

*Briefing* *prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6 [↑](#footnote-ref-1)
2. 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6 [↑](#footnote-ref-2)
3. 4 June 2015, A/HRC/29/17/Add.1, Report of the working group: Addendum [↑](#footnote-ref-3)
4. 3 November 2014, A/HRC/WG.6/21/KWT/1, National report to the UPR, para. 31 [↑](#footnote-ref-4)
5. 26 October 1998, CRC/C/15/Add.96, Concluding observations on initial report, para. 21 [↑](#footnote-ref-5)
6. 29 October 2013, CRC/C/KWT/CO/2, Concluding observations on second report, paras. 41 and 42 [↑](#footnote-ref-6)
7. 16 June 2010, A/HRC/15/15, Report of the Working Group, para. 79 [↑](#footnote-ref-7)
8. 13 April 2015, A/HRC/29/17, Report of the working group, paras. 157(146), 157(147), 157(148) and 157(149) [↑](#footnote-ref-8)
9. 4 June 2015, A/HRC/29/17/Add.1, Report of the working group: Addendum [↑](#footnote-ref-9)