

**BRIEFING ON BAHRAIN FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 121st session (October-November 2017)**

*From the Global Initiative to End All Corporal Punishment of Children, July 2017*

**This briefing describes the legality of corporal punishment of children in Bahrain. In light of the obligation under international human rights treaties to prohibit all corporal punishment of children, the global commitment to ending violence against children – including corporal punishment – in the context of the 2030 Agenda for Sustainable Development, the recommendations of the UN Secretary General’s Study on Violence against Children, the recommendations made to Bahrain by the Committee on the Rights of the Child (in 2002 and 2011), the Committee Against Torture in 2017, and during the UPR in 2017, we hope the Human Rights Committee will:**

* **raise the issue of corporal punishment of children in its List of Issues for Bahrain, in particular asking what progress has been made to prohibit corporal punishment of children in all settings, including the home, and**
* **in its concluding observations on Bahrain’s initial report, recommend that legislation prohibiting corporal punishment of children in all settings and repealing any legal defence to its use is drafted and enacted as a matter of priority.**

**1 The report of Bahrain to the Human Rights Committee**

* 1. Bahrain’s initial state party report to the Human Rights Committee (CCPR/C/BHR/1) was only available in Arabic at the time of writing of this briefing.

**1.2 In light of the state’s obligation to prohibit corporal punishment in all settings, we hope the Committee will raise the issue of corporal punishment of children in its review of Bahrain and recommend that prohibition of corporal punishment in all settings and the repeal of the “reasonable chastisement” defence is enacted as a matter of priority.**

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

2.1 ***Summary:*** In Bahrain, corporal punishment is lawful in the home, in alternative and day care settings, and in penal institutions. It is unlawful in schools and as a sentence for a crime.

2.2 ***Home (lawful):***Until 1971, Bahrain was a British protectorate and it is likely that this relationship with the UK entailed an acceptance of the common law defence of “reasonable chastisement”. Article 16 of the Penal Code 1976 states: “Nothing is an offence which is done in exercise of a right justified by law or custom.” Provisions against violence and abuse in the Penal Code and the Domestic Violence Law No. 17/2015 are not interpreted as prohibiting corporal punishment in childrearing. The Children’s Act 2012 states that the State must protect children from abuse and neglect (art. 42), defining abuse with reference to direct or indirect harm to the child (art. 44). The Act does not prohibit corporal punishment.

2.3 A Law on Personal Status was under discussion in 2011: we have no further details. As at May 2017 the Government was working on a draft consolidated law on family provisions.[[1]](#footnote-1)

2.4 ***Alternative care and day care settings (lawful):***Corporal punishment is lawful in alternative care and day care settings under article 16 of the Penal Code 1976.

2.5 ***Schools (unlawful):***Corporal punishment is prohibited in schools under the Code of School Discipline, promulgated by the Ministry of Education in Ordinance No. 549/168-1/1992. The Education Act 2005 is silent on the issue. In reporting to the UN Committee on the Rights of the Child in 2010, the Government stated that the then Children’s Bill included prohibition of physical violence and humiliating or degrading treatment in schools.[[2]](#footnote-2) The Children’s Act as passed in 2012 provides for the right to education but does not explicitly prohibit corporal punishment.

2.6 ***Penal institutions (lawful):***There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

2.7 ***Sentence for a crime (unlawful):***Under article 32 of the Penal Code 1976, young persons under 15 can be subject only to the measures in the Juveniles Act 1976, which do not include corporal punishment (art. 6). Persons over 15 are tried as adults and sentenced under the Penal Code, article 70 of which states that being aged 15-18 years is a mitigating circumstance warranting adjusted sentences. There is no provision for judicial corporal punishment in the Code. The Constitution states that Shari’a is “a principal source for legislation” (art. 2). We have found no indication that this applies to criminal law and sentencing.

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

3.1 ***CRC:*** The Committee has twice recommended to Bahrain that its laws be reformed to prohibit corporal punishment of children in the family and other settings – in its concluding observations on the initial report in 2002[[3]](#footnote-3) and on the second/third report in 2011.[[4]](#footnote-4)

3.2 ***CAT:*** In its 2017 concluding observations on Bahrain’s second/third report, the Committee Against Torture recommended that the Government expressly prohibit corporal punishment of children in all settings.[[5]](#footnote-5)

3.3 ***UPR:*** At Bahrain’s third cycle examination in 2017, a recommendation to prohibit corporal punishment of children in all settings was issued to the Government.[[6]](#footnote-6) The Government will examine the recommendation and respond by the 36th session of the Human Rights Council in September 2017.

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

[*www.endcorporalpunishment.org*](http://www.endcorporalpunishment.org)*;* *info@endcorporalpunishment.org*

1. 13 February 2017, A/HRC/WG.6/27/BHR/1, National report, para. 115 [↑](#footnote-ref-1)
2. 25 March 2010, CRC/C/BHR/2-3, Second/third state party report to the Committee on the Rights of the Child, para. 199 [↑](#footnote-ref-2)
3. 7 February 2002, CRC/C/15/Add.175, Concluding observations on initial report, paras. 37 and 38 [↑](#footnote-ref-3)
4. 3 August 2011, CRC/C/BHR/CO/2-3, Concluding observations on second/third report paras. 44, 45 and 46 [↑](#footnote-ref-4)
5. [May 2017], CAT/C/BHR/CO/2-3, Concluding observations on second/third report, Advance unedited version, paras. 36 and 37 [↑](#footnote-ref-5)
6. 3 May 2017, A/HRC/WG.6/27/L.1, Draft report of the Working Group, Advance unedited version, para. 6(160) [↑](#footnote-ref-6)