

# **Corporal punishment of children in Bahrain: Briefing for the Universal Periodic Review, 41<sup>st</sup> session, Oct./Nov. 2022**



*From the Global Partnership to End Violence Against Children, March 2022*

This submission provides an update on the legality of corporal punishment of children in Bahrain since its review in the third cycle UPR in 2017. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care and penal institutions.

**The legality and practice of corporal punishment of children violates their fundamental human rights to respect for human dignity and physical integrity and to equal protection under the law. Under international human rights law – the Convention on the Rights of the Child and other human rights instruments – states have an obligation to enact legislation to prohibit corporal punishment in all settings, including the home.**

**In Bahrain, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and during the 3<sup>rd</sup> cycle UPR of Bahrain in 2017, which the Government accepted.**

**We hope the Working Group will note with concern the legality of corporal punishment of children in Bahrain. We hope states will raise the issue during the review in 2022 and make a specific recommendation that Bahrain enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal legal defences for the use of corporal punishment included in the Penal Code 1976.**

## **1 Review of Bahrain in the 3<sup>rd</sup> cycle UPR (2017) and progress since**

1.1 Bahrain was reviewed in the third cycle of the Universal Periodic Review in 2017 (session 27). A recommendation<sup>1</sup> to prohibit corporal punishment in all settings was made and accepted by the Government.<sup>2</sup>

<sup>1</sup> 3 May 2017, A/HRC/WG.6/27/L.1, Draft report of the Working Group, Advance unedited version, para. 6(160)

<sup>2</sup> 15 September 2017, A/HRC/36/3/Add.1, Report of the working group: Addendum, Advance version, para. 11

- 1.2 Since the review, no law reform appeared to have been initiated with a view to explicitly prohibit corporal punishment of children in all settings.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in Bahrain. We hope states will raise the issue during the review this year and make a specific recommendation that Bahrain enact a legislation to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, and repeal all legal defences for its use, as a matter of urgency.**

## 2 Legality of corporal punishment in Bahrain

### ***Summary of current law and opportunities for achieving prohibition***

Corporal punishment of children in the Bahrain is lawful in the home, alternative care settings, day care and penal institutions.

Article 16 of the Penal Code 1976 states that “nothing is an offence which is done in exercise of a right justified by law or custom”, article 133 of the Family Code 2017 may refer to “disciplining” of the child (information unconfirmed), and laws against violence and abuse are not interpreted as prohibiting corporal punishment of children. 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”. The near universal acceptance of corporal punishment in childrearing necessitates a clear statement in law that all forms of corporal punishment and other cruel and degrading treatment are unacceptable, however light, whatever the relationship between the child and adult, and whatever the setting, together with repeal of all legal defences for its use.

- 2.1 ***Home (lawful)***: Corporal punishment is lawful in the home. 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.

According to information provided to the Human Rights Committee in 2018, the Family Code No. 19 of 2017 is only applicable to Muslim citizens.<sup>3</sup> However the Government later stated that the Family Code applied to “families without distinction”.<sup>4</sup> It appears article 133 of the Family Code refers to fathers and guardians “disciplining” of the child (information unconfirmed). A Law on Personal Status was under discussion in 2011: we have no further details.

- 2.2 **Alternative care settings (lawful):** Corporal punishment is lawful in alternative care settings under article 16 of the Penal Code 1976 (see under “Home”). The Government reported in 2018 that corporal punishment was prohibited in the “rules of procedure of Batelco Child Care Centre [a state-run home for children] ... irrespective of its purpose and degree of severity”.<sup>5</sup> However this is internal policy, not legislation, and does not apply to all alternative care settings.
- 2.3 **Day care (lawful):** Corporal punishment is lawful in early childhood care and in day care for older children under article 16 of the Penal Code 1976 (see under “Home”).
- 2.4 **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.<sup>6</sup> The Children’s Act as passed in 2012 provides for the right to education but does not explicitly prohibit corporal punishment.
- 2.5 **Penal institutions (lawful):** There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.
- 2.6 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime. 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 Penal Code or in the Law No. 18 of 2017 on alternative sanctions and measures. 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. A Correctional Justice Bill is being drafted to bring domestic legislation in line with international obligations.<sup>7</sup>

### 3 Recommendations by human rights treaty bodies

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<sup>3</sup> 27 April 2018, CCPR/C/BHR/Q/1/Add.1, Reply to list of issues, para. 31

<sup>4</sup> 14 November 2018, CRC/C/BHR/Q/4-6/Add.1, Reply to list of issues, para. 8

<sup>5</sup> 16 March 2018, CRC/C/BHR/4-6, Fourth/sixth report, para. 78

<sup>6</sup> 25 March 2010, CRC/C/BHR/2-3, Second/third state party report to the Committee on the Rights of the Child, para. 199

<sup>7</sup> 14 November 2018, CRC/C/BHR/Q/4-6/Add.1, Reply to list of issues, para. 1

3.1 **CRC:** On four occasions, the Committee on the Rights of the Child has expressed concern at corporal punishment of children in Bahrain and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party’s initial report in 2002,<sup>8</sup> in the state party’s second-third report in 2011,<sup>9</sup> and in the state party’s fourth-sixth report in 2019.<sup>10</sup>

3.2 **CAT:** In its 2005 concluding observations on the state party’s second-third report in 2017, the Committee Against Torture recommended the enactment of a legislation to explicitly prohibit corporal punishment of children in all settings.<sup>11</sup>

*Briefing prepared by End Corporal Punishment on behalf of the Global Partnership to End Violence Against Children*

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<sup>8</sup> 7 February 2002, CRC/C/15/Add.175, Concluding observations on initial report, paras. 37 and 38

<sup>9</sup> 3 August 2011, CRC/C/BHR/CO/2-3, Concluding observations on second/third report paras. 44, 45 and 46

<sup>10</sup> 1 February 2019, CRC/C/BHR/CO/4-6 Advance unedited version, Concluding observations on fourth/sixth report, para. 28

<sup>11</sup> 29 May 2017, CAT/C/BHR/CO/2-3, Concluding observations on second/third report, paras. 36 and 37