

# **Corporal punishment of children in Kuwait: Briefing for the Universal Periodic Review, 21<sup>st</sup> session, 2015**

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Global Initiative to  
**End All Corporal Punishment  
of Children**

**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 Kuwait, corporal punishment of children is lawful despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and during the 1<sup>st</sup> cycle UPR of Kuwait in 2010 (accepted by the Government).**

**We hope the Working Group will note with concern the legality of corporal punishment in Kuwait. We hope states will raise the issue during the review in 2015 and make a specific recommendation that the draft new Child Act includes prohibition of all corporal punishment in all settings and repeals the right to discipline from the Criminal Code.**

## **1 Review of Kuwait in the 1<sup>st</sup> cycle UPR (2010) and progress since then**

1.1 Kuwait was reviewed in the first cycle of the Universal Periodic Review in 2010 (session 8). The issue of corporal punishment was included in the compilation of UN information<sup>1</sup> and the summary of stakeholders' information.<sup>2</sup> The following recommendation was made during the review and was accepted by the Government:<sup>3</sup>

“Take appropriate measures and introduce legislation which would prohibit corporal punishment of children (Slovenia)”

1.2 The prohibition and elimination of all corporal punishment, without exception, is an immediate obligation under the Convention on the Rights of the Child and other international human rights instruments. Since the review in 2010, the Government has enacted Law No. 9/2010 on protection of children from violence and exploitation and has informed the Committee on the Rights of the Child that it protects children from all types of abuse.<sup>4</sup> We have yet to see the text of this law but indications are that it does not explicitly prohibit all corporal punishment. A draft Child Act is under discussion which reportedly would prohibit cruel, inhuman or degrading treatment by persons with

<sup>1</sup> 12 February 2010, A/HRC/WG.6/8/KWT/2, Compilation of UN information, para. 29

<sup>2</sup> 28 January 2010, A/HRC/WG.6/8/KWT/3, Summary of stakeholders' views, para. 20

<sup>3</sup> 16 June 2010, A/HRC/15/15, Report of the working group, para. 79(10)

<sup>4</sup> 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

authority over a child, including in the home, schools and institutions.<sup>5</sup> This provides a key opportunity for enacting explicit prohibition of all corporal punishment. **We hope members of the Working Group will urge the Government of Kuwait to ensure that the new Child Act includes prohibition of all corporal punishment of children in all settings and repeals the right to discipline in the Criminal Code.**

## **2 Legality of corporal punishment in Kuwait**

- 2.1 **Summary:** In Kuwait, corporal punishment of children is possibly unlawful in schools and the penal system; it is not prohibited in the home, alternative care settings and day care.
- 2.2 **Home (lawful):** Under examination by the Human Rights Committee, the Government indicated that corporal punishment is unlawful under the Criminal Code Act No. 16 1960.<sup>6</sup> However, article 29 of the Criminal Code provides for the right of parents to discipline their children, and 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.<sup>7</sup> 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 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment. The right of parents to discipline children in article 29 of the Criminal Code 1960 presumably applies to all with parental authority.
- 2.4 **Day care (lawful):** There is no explicit prohibition of corporal punishment. The right of parents to discipline children in article 29 of the Criminal Code 1960 presumably applies to all with parental authority.
- 2.5 **Schools (?unlawful):** During examination by the Committee on the Rights of the Child in 1998, the Government stated that a statute dating back to the 1960s prohibited corporal punishment by teachers or school principals.<sup>8</sup> In 2011, the Government informed the Human Rights Committee that corporal punishment is prohibited by statute;<sup>9</sup> a similar statement was made to the Committee on the Rights of the Child in 2013.<sup>10</sup> This information has not been verified: the Government has not provided legal references and we have been unable to examine the full texts of the Compulsory Education Act 1965 and the General Education Act 1987.
- 2.6 **Penal institutions (?unlawful):** Corporal punishment is considered unlawful 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.

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<sup>5</sup> 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

<sup>6</sup> 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Reply to list of issues, para. 99

<sup>7</sup> 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

<sup>8</sup> 2 October 1998, CRC/C/SR.489, Summary record of 489<sup>th</sup> meeting, para. 8

<sup>9</sup> 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Reply to list of issues, para. 101

<sup>10</sup> 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

2.7 *Sentence for crime (?unlawful)*: There is no provision for judicial corporal punishment in the Juveniles Act 1983, the Criminal Code 1960 or the Criminal Procedure Code 1960. 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 monitoring bodies**

3.1 *CRC*: The Committee on the Rights of the Child has twice expressed concern at corporal punishment of children in Kuwait and recommended that it be prohibited in the family and all other settings – in its concluding observations on the initial report in 1998<sup>11</sup> and again on the second report in 2013.<sup>12</sup>

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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*The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities.*

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<sup>11</sup> 26 October 1998, CRC/C/15/Add.96, Concluding observations on initial report, para. 21

<sup>12</sup> 29 October 2013, CRC/C/KWT/CO/2, Concluding observations on second report, paras. 41 and 42