

Corporal punishment of children in the United Arab Emirates: Briefing for the Universal Periodic Review, 43rd session, April/May 2023



End Violence
Against Children



End Corporal
Punishment

*From the Global Partnership to End Violence Against Children,
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This submission provides an update on the legality of corporal punishment of children in the United Arab Emirates since its review in the third cycle UPR in 2018. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care and as a sentence for crime; prohibition in penal institutions requires confirmation.

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 the United Arab Emirates, corporal punishment of children is lawful, despite recommendations to prohibit it by the Committee on the Rights of the Child, other human rights treaty bodies, and during the 3rd cycle UPR of the United Arab Emirates in 2018.

We hope the Working Group will note with concern the legality of corporal punishment of children in the United Arab Emirates. We hope states will raise the issue during the review next year and make a specific recommendation that the United Arab Emirates accelerates its efforts to clearly prohibit all corporal punishment of children in every setting of their lives and repeal any legal defence allowing its use, as a matter of priority.

1 Review of the United Arab Emirates in the 3rd cycle UPR (2018) and progress since

1.1 The United Arab Emirates was reviewed in the third cycle of the Universal Periodic Review in 2018 (session 29). Recommendations to prohibit corporal punishment in all settings were made.¹ The Government supported the recommendations, stating that (unofficial translation) “many of the recommendations it had supported had been or were in the

¹ 18 April 2018, A/HRC/38/14, Report of the working group, paras. 141(180), 141(196) and 141(197)

process of being implemented”.²

- 1.2 Following the review, no legislation to explicitly prohibit corporal punishment of children in all settings seems to have been adopted. The United Arab Emirates became a Pathfinder country with the Global Partnership to End Violence Against Children in 2018. This committed the Government to three to five years of accelerated action towards the achievement of Target 16.2 of the Sustainable Development Goals.
- 1.3 **We hope the Working Group will note with concern the legality of corporal punishment of children in the United Arab Emirates We hope states will raise the issue during the review in 2023 and make a specific recommendation that the United Arab Emirates intensify its efforts to enact a law to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, as a matter of urgency.**

2 Legality of corporal punishment in the United Arab Emirates

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in the United Arab Emirates is lawful in the home, alternative care settings, day care, as a sentence for crime, while prohibition in penal institutions requires confirmation.

Article 2.2 of the Law no. 3/2016 on the Rights of the Child recognises a “right” of parents to “discipline” their child. Legal provisions against assault and violence are not interpreted as prohibiting corporal punishment. The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no degree or kind of such punishment is acceptable or lawful. All legal defences for the use of corporal punishment should be repealed, and prohibition enacted of all corporal punishment, however light and whoever the perpetrator.

- 2.1 **Home (lawful):** Corporal punishment is lawful in the home. Article 2.2 of Law no. 3/2016 on the Rights of the Child (or Law “Wadeema”) recognises a “right” of parents to “discipline” their child, stating: “The competent authorities and the concerned entities shall ... protect the child from all forms of neglect, exploitation and abuse and from any physical and psychological violence that exceeds the limits of the Sharia and the Law, such as the rights of the parents and their equivalents to discipline their children.” In 2016, the state reported that articles 33 to 37 of Law no. 3/2016 on the Rights of the Child protected children from all forms of violence:³ however these articles do not explicitly prohibit corporal punishment and are undermined by article 2.2. Article 1 of the Law defines violence against children as the “deliberate use of force against any child by any individual or group that would lead to *actual harm* to the health, growth or survival of the child” (emphasis added).

² 14 June 2018, A/HRC/38/14/Add.1 Advance unedited version, Report of the working group: Addendum, paras. 3 and 5

³ 8 July 2016, CRPD /C/ARE/Q/1/Add.1, Reply to list of issues, para. 15

2.2 The Government had reported in 2015 that a committee chaired by a representative of the Ministry of Justice had been formed to review the Penal Code in relation to domestic violence and had included among its recommendations the deletion of article 53(1), which allowed the “chastisement by a husband to his wife and chastisement of the parents, or whoever acts in their stead, to the minor children within the limits prescribed by Shari’a or by law...”.⁴ This was achieved by Federal Decree-Law no. 7/2016. Previously, a 2010 judgment by the Federal Supreme Court had reportedly upheld a husband’s right to “chastise” his wife and children provided that beating and other forms of punishment leave no physical marks.⁵

2.3 In reporting to the UPR in November 2017, the Government committed to finalising and enacting the draft Federal Act on Domestic Violence.⁶ We have been unable to examine the draft but there are no indications corporal punishment of children will be addressed.

2.4 **Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings, where corporal punishment is lawful as for parents under the right to discipline in article 2.2 of the Law no. 3/2016 on the Rights of the Child (see under “Home”). The Federal Act No. 1 of 2012 concerning care for children of unknown parentage does not prohibit the use of corporal punishment.

2.5 **Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care or in day care for older children. It is lawful as parents under the right to discipline in article 2.2 of the Law no. 3/2016 on the Rights of the Child.

2.6 **Schools (unlawful):** Corporal punishment is prohibited in schools under article 9 of Ministerial Decision No. 454/2 1998 regulating students’ behaviour in school premises. It is considered unlawful in private schools under the Regulation of Behavioural Direction for Private School Students, which states that schools should not resort to non-pedagogic methods for modifying student behaviour, but there is no explicit prohibition.

In 2010, the Ministry of Education was reportedly developing a new code of conduct for public schools and private schools were being urged to do likewise, and calls were being made for it to explicitly forbid the use of corporal punishment.⁷ It appears corporal punishment in schools was in fact prohibited in the 2017 amended version of the Code of Conduct for teachers and school staff⁸ - we have been unable to examine the text to confirm this. In 2019, the Ministry of Education launched a “Child Protection Unit” which aimed to set up an integrated system providing children with legal and social protection at all educational stages.⁹

2.7 **Penal institutions (?unlawful):** It appears that corporal punishment is unlawful as a disciplinary measure in penal institutions. Penal institutions are regulated by Ministerial Decree No. 471 1995 on the Promulgation of the Executive Regulations for Federal Act No. 43 1992 Regulating Penitentiaries 1995. Article 86(1) states: “Cruelty, beating, torture or any other manifestation of material aggression against a prisoner shall not be authorised. Any form of psychological abuse shall also be prohibited. Disciplinary action against a prisoner shall be within the limits of specified penalties which are in accordance with the provisions of the law

⁴ 6 July 2015, CRC/C/ARE/Q/2/Add.1, Reply to list of issues, paras. 13, 14 and 15

⁵ Joint submission to the UPR, 2013, from Human Rights Watch, Network for Human Rights Information, Gulf Centre for Human Rights, and Index on Censorship; Submission to the UPR, 2013, from Amnesty International

⁶ 13 November 2017, A/HRC/WG.6/29/ARE/1, National report, para. 68

⁷ *DaijiWorld*, 3 February 2010

⁸ See <http://www.arabnews.com/node/1172171/offbeat> and <https://www.thenational.ae/uae/education/teachers-told-not-to-mock-pupils-in-new-uae-education-code-of-conduct-1.663814>, accessed 7 June 2022

⁹ <https://www.moe.gov.ae/en/mediacenter/news/pages/childprotectionunit1.aspx>

and text of this chapter.” There is no provision for corporal punishment among the disciplinary measures permitted for juveniles.

2.8 Sentence for crime (lawful): Corporal punishment is lawful as a sentence for crime. The main federal laws governing juvenile justice are the Penal Code 1987, the Criminal Procedure Code 1992, the Law of Evidence 1992, and the Juvenile Delinquents and Vagrants Act 1976. These criminal laws apply to non-Islamic offences and to most *ta'zir* (discretionary punishment) offences, but not to *hadd* (mandatory punishments), *qisas* (punished by retaliation) and *diyah* offences (requiring compensation of victims), which are governed solely by Shari'a law. In 2008, the Government reported that the Ministry of Social Affairs was studying a draft law that would improve protection for children, including through the creation of juvenile justice courts, but we have no further information.¹⁰ The Government reported in 2017 that a draft Federal Act on Juvenile Delinquents was under discussion.¹¹ The Sharia Courts Act 1996 provides for Shari'a courts to try cases concerning crimes allegedly committed by juveniles, and states that Shari'a punishments shall apply (arts. 1 and 2).

2.9 In July 2012, the United Arab Emirates acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but in doing so declared that “the lawful sanctions applicable under national law, or pain or suffering arising from or associated with or incidental to these lawful sanctions, do not fall under the concept of ‘torture’ as defined in article 1 of this Convention or under the concept of cruel, inhuman or degrading treatment or punishment mentioned in this Convention”.

2.10 The Constitution 1971 prohibits torture and degrading treatment (art. 26) and there is no provision for corporal punishment as a sentence of the courts in the Penal Code, the Juvenile Delinquents and Vagrants Act 1976 or other criminal law. However, child offenders may be subject to corporal punishment under Shari'a law. Punishments include flogging, amputation, and – as retaliation – injury similar to that for which the offender has been convicted of inflicting on the victim. Islamic law also provides for discretionary *ta'zir* punishments. *Ta'zir* offences and punishments are, with some exceptions, codified in the Penal Code and other criminal laws. Article 1 of the Penal Code states: “In crimes of doctrinal punishment (*Hadud*), retaliation (*Qisas*), and blood money (*Diyah*), the provisions of Islamic Shari'a shall be applied. The crimes and disciplinary punishments (*Ta'azir*) shall be determined according to the provisions of this Code and other criminal statutes.” While the Penal Code itself does not provide for corporal punishment, according to Shari'a law, *ta'zir* punishments should be based on the *hadd* punishments which would be relevant for similar cases, and in practice persons charged under the Code have therefore been sentenced to corporal punishment.¹² The Federal Supreme Court has confirmed that for *ta'zir* offences which are related to *hadd* offences that are not covered by the Penal Code, judges have discretion to specify *hadd* punishments, including flogging.¹³ According to Amnesty International, in 2007, a court in al-'Ain sentenced a teenage girl to 60 lashes for having “illicit sex” with a man when she was 14; the sentence was upheld in June 2007.¹⁴

2.11 It has also been reported that courts convict people for zina offences under article 358 of the Penal Code, which punishes “indecentcy”, sometimes going beyond the codified laws and sentencing persons convicted to stoning and flogging.¹⁵

¹⁰ 9 November 2009, A/HRC/10/29, Report of the Human Rights Council on its tenth session, para. 425

¹¹ 13 November 2017, A/HRC/WG.6/29/ARE/1, National report, page 4

¹² Al-Muhairi, B.S.B.A. (1997), “The Incompatibility of the Penal Code with Shari'a”, *Arab Law Quarterly*, 12 (3), 307-329

¹³ The Ahmad Malik case – Unpublished Shari'a Criminal Cassation Case No. 44 Year 14, on 30 January 1993

¹⁴ *Amnesty International Report 2007: The State of the World's Human Rights*, London: Amnesty International Publications

¹⁵ Human Rights Watch Submission to the CEDAW Committee of the United Arab Emirates' Periodic Report 62nd Session, February 2015

3 Recommendations by human rights treaty bodies

3.1 **CRC**: In its concluding observations on the state party's initial report in 2002¹⁶ and on the second report in 2015,¹⁷ the Committee on the Rights of the Child has recommended to the United Arab Emirates that measures are taken to protect children against corporal punishment through a public awareness campaign and a legislation to explicitly prohibit corporal punishment in all settings.

3.2 **CRPD**: In its concluding observations on the state party's initial report in 2016,¹⁸ the Committee on the Rights of Person with Disabilities recommended that the Government prohibit all forms of corporal punishment in all settings.

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

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¹⁶ 13 June 2002, CRC/C/15/Add.183, Concluding observations on initial report, paras. 32, 33, 34 and 35

¹⁷ 2 October 2015, CRC/C/ARE/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 37, 38, 39 and 40

¹⁸ 3 October 2016, CRPD/C/ARE/CO/1, Concluding observations on initial report, paras. 29 and 30