

BAHRAIN

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 13th session, 2012

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

Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

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. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in Bahrain, despite repeated recommendations by the Committee on the Rights of the Child and questioning on the issue during the review of Bahrain by the Human Rights Council in the first cycle of the UPR.

We hope the Human Rights Council will highlight with concern Bahrain’s lack of progress towards prohibiting corporal punishment of children, particularly in the home and other care settings, and strongly recommend that legislation be introduced as a matter of urgency to prohibit all forms of corporal punishment of children in all settings.

1 The initial review of Bahrain by the Human Rights Council (2008)

1.1 Bahrain was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 1). The issue of corporal punishment was raised in advance questions by Finland. Bahrain responded by stating that corporal punishment is prohibited in schools and that a new “draft law on the child interest” was under consideration.¹

1.2 The Global Initiative has been unable to examine the text of the draft child law but evidence from Bahrain’s examination by the Committee on the Rights of the Child in 2011 (see below) indicates that it would not prohibit corporal punishment in all settings and there has been no progress towards law reform to prohibit corporal punishment of children in Bahrain since the UPR in 2008. While it is prohibited in schools and apparently as a sentence of the courts, it is lawful in the home, in penal institutions and in alternative care settings.

1.3 No formal recommendation on corporal punishment was made to Bahrain during the review, although the issue was raised. Given that prohibiting corporal punishment is a key obligation under the Convention on the Rights of the Child and other international human rights instruments, and that it is frequently an obligation ignored or even denied by Governments, challenging Bahrain in this respect during its second UPR would reflect the seriousness with which the Human Rights Council views violations of the rights of all persons, including children.

2 Examination of Bahrain by the Committee on the Rights of the Child (2011)

2.1 Bahrain was examined by the Committee on the Rights of the Child in 2011. The combined second and third state party report on implementation of the Convention on the Rights of the Child stated that all forms of violence are prohibited under the Criminal Code and that the Child Education Bill would prohibit violence against children, but there was no suggestion that it would explicitly prohibit corporal punishment.²

2.2 The List of Issues adopted by the Committee on the Rights of the Child specifically asked the Government of Bahrain about the progress made towards enacting legislation which would prohibit corporal punishment in all settings including the home.³ The Government’s response drew attention to provisions for children in conflict with the law in the Juvenile Act (1976) but did not mention corporal punishment.⁴ In response to another question, the Government described aspects of a children bill under discussion which aimed at strengthening child protection but again no mention was made of prohibiting corporal punishment.⁵ The concluding observations of the Committee state: “The Committee remains concerned that little or no action has been taken, or is planned for, prohibiting corporal punishment in all settings, including the home.”⁶

¹ 22 May 2008, A/HRC/8/19, Report of the Working Group on the Universal Periodic Review: Bahrain, para. 6

² 25 March 2010), CRC/C/BHR/2-3, Second/third state party report to the Committee on the Rights of the Child, paras. 197-202

³ 2 November 2010, CRC/C/BHR/Q/2-3, List of Issues, Question 2

⁴ 13 May 2011, CRC/C/BHR/Q/2-3/Add.1, Written replies to the List of Issues, para. 2

⁵ 13 May 2011, CRC/C/BHR/Q/2-3/Add.1, Written replies to the List of Issues, para. 26

⁶ 17 June 2011, CRC/C/BHR/CO/2-3 Advance Unedited Version, Concluding observations on second/third report para. 44

3 Legality of corporal punishment in Bahrain

3.1 Corporal punishment is lawful in the **home**. A legal defence for its use is provided by article 16 of the Penal Code (1976), which 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 are not interpreted as prohibiting corporal punishment in childrearing.

3.2 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.

3.3 In the **penal system**, corporal punishment appears to be unlawful as a sentence for crime. According to article 32 of the Penal Code, children under 15 can be subject only to the measures in the Juveniles Act (1976), which do not include corporal punishment. Persons over 15 are sentenced under the Penal Code, which does not provide for corporal punishment. The Constitution states that Shari’a is “a principal source for legislation” (article 2): we have found no indication that this applies to criminal law and sentencing. However, there is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

3.4 Corporal punishment is lawful in **alternative care settings** under article 16 of the Penal Code (see above).

4 Recommendations by human rights treaty monitoring bodies

4.1 The **Committee on the Rights of the Child** has twice recommended that Bahrain prohibit all corporal punishment of children, including in the home – in 2011 in its concluding observations on the state party’s second/third report⁷ and in 2002 on the initial report.⁸

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⁷ 17 June 2011, CRC/C/BHR/CO/2-3 Advance Unedited Version, Concluding observations on second/third report paras. 44, 45 and 46

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