



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

IRAQ

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 7th session, 2010

From Peter Newell, Coordinator, Global Initiative

[*info@endcorporalpunishment.org*](mailto:info@endcorporalpunishment.org)

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.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and 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. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

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 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, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Iraq, despite the recommendations of the Committee on the Rights of the Child. We hope the Review will highlight the importance of prohibition of corporal punishment of children, and strongly recommend that the government introduce legislation as a matter of urgency to prohibit all corporal punishment of children in all settings – the home, schools, reform schools, rehabilitation centres and all alternative care settings.

1 Legality of corporal punishment in Iraq

1.1 Corporal punishment is lawful in the **home**. Article 41 of the Penal Code states that “the punishment of a wife by her husband, the disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom” is not a crime. Children have limited protection from abuse under the Minors Act, the Juvenile Welfare Act (1983) and the Penal Code (1969), but these are not interpreted as prohibiting all corporal punishment in childrearing.

1.2 According to a statistical review by UNICEF, 68% of children aged 2-14 experienced minor physical punishment in the home in 2005-2006. The same review reported that 59% of girls and women aged 15-49 believed that a husband or partner is justified in hitting or beating his wife under certain circumstances.¹

1.3 Regulations state that corporal punishment should not be used in **schools**, but there is no explicit prohibition in legislation and article 41 of the Penal Code applies (see above).

1.4 In the **penal system**, corporal punishment is unlawful as a sentence for crime under the Law of Administration for the State of Iraq for the Transitional Period (2004) (article 15) and CPA Order No. 7 Penal Code (2003) (article 3). It is prohibited as a disciplinary measure in penal institutions under CPA Memorandum No. 2 Management of Detention and Prison Facilities (2003) (article 11). We have no information on the legality of corporal punishment in reform schools and rehabilitation centres.

1.5 There is no explicit prohibition of corporal punishment in **alternative care settings**.

2 Recommendations by human rights treaty monitoring bodies

2.1 In 1998, in its concluding observations on the state party’s initial report, the **Committee on the Rights of the Child** recommended prohibition of corporal punishment at all levels of society (CRC/C/15/Add.94, para. 20).

¹ UNICEF (2007), *Progress for Children: A World Fit for Children – Statistical Review, Number 6, December 2007*