

Corporal punishment of children in the Syrian Arab Republic: Briefing for the Universal Periodic Review, 26th session, 2016

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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 the Syrian Arab Republic, corporal punishment of children is lawful, despite repeated recommendations to by the Committee on the Rights of the Child and the Government’s acceptance of recommendations made during the 1st cycle UPR to harmonise domestic legislation with international human rights standards.

We hope the Working Group will note with concern the legality of corporal punishment of children in Syria. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Syria enact legislation to clearly prohibit corporal punishment of children under all circumstances, including in the home, and to explicitly repeal the Penal Code provision allowing the discipline of children according to “general custom”.

1 Review of the Syrian Arab Republic in the 1st cycle UPR (2011) and progress since

1.1 Syria was reviewed in the first cycle of the Universal Periodic Review in 2011 (session 12). The issue of corporal punishment of children was raised in the compilation of UN information¹ and in the summary of stakeholders’ information.² No recommendations were made during the review specifically on corporal punishment of children, but the Government accepted a number of recommendations concerning harmonisation of domestic legislation with international human rights standards and with protecting the rights of children.³

1.2 Prohibiting and eliminating corporal punishment of children is an immediate obligation of states under the Convention on the Rights of the Child and other human rights treaties. Children have a fundamental human right to respect for their human dignity and physical integrity, both in times of peace and in times of conflict, and for this right to be confirmed in legislation which prohibits all corporal punishment and other cruel, inhuman and degrading treatment in all settings – including the home, and regardless of who the perpetrator is. However, this is an obligation frequently evaded by states: in Syria, legislation on child rights has been under discussion since at

¹ 5 September 2011, A/HRC/WG.6/12/SYR/2, Compilation of UN information, para. 49

² 25 July 2011, A/HRC/WG.6/12/SYR/3, Summary of stakeholders’ information, para. 24

³ A/HRC/19/11, Report of the working group, paras. 100(1) 100(2), 100(3) and 100(41)

least 2006 but no progress has been made towards ensuring that it includes prohibition of all corporal punishment and that it is adopted as a matter of priority.

- 1.3 We hope the Working Group will note with concern the legality of corporal punishment of children in Syria. We hope states will raise the issue during the review in 2016 and make a specific recommendation that Syria clearly prohibit all corporal punishment of children in all settings, including the home, and explicitly repeal the Penal Code provision allowing the discipline of children according to “general custom”.**

2 Legality of corporal punishment in the Syrian Arab Republic

Summary of current law and reforms needed in order to achieve prohibition

Corporal punishment of children in Syria is unlawful as a sentence for crime but it is lawful in all other settings – the home, alternative care settings, day care, schools and penal institutions. Legislation on child rights has long been under discussion: this provides an opportunity for prohibiting corporal punishment and repealing the law allowing the discipline of children according to “general custom”.

- 2.1 Home (lawful):** The Penal Code 1949, which is based on the Lebanese Penal Code, permits parents and teachers to discipline children “as sanctioned by general custom”. Paternal guardianship is governed by the Personal Status Act 1953 and includes the exercise of disciplinary authority (art. 170). In 2012, a comprehensive Child Rights Bill was under discussion which would reportedly integrate all the provisions of the Convention on the Rights of the Child and had been pending for adoption since 2006.⁴ We do not know if the Bill would prohibit corporal punishment: efforts should be made to ensure it includes the necessary reforms.
- 2.2 Alternative care settings (lawful):** There is no explicit prohibition of corporal punishment in alternative care settings. It is lawful as for parents under the Penal Code 1949 and the Personal Status Act 1953.
- 2.3 Day care (lawful):** There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. It is lawful under the Penal Code 1949 and the Personal Status Act 1953.
- 2.4 Schools (lawful):** Corporal punishment is lawful in schools under the Penal Code 1949. The Ministry of Education has issued decisions and orders stating that children should not be subjected to physical punishment, and encouraging teachers to use dialogue and other methods of discipline, but there is no explicit prohibition of corporal punishment in law.
- 2.5 Penal institutions (lawful):** Corporal punishment is not prohibited. Severe beatings and other ill-treatment of detainees, including children, have been documented.⁵
- 2.6 Sentence for crime (unlawful):** There is no provision for judicial corporal punishment in the Juveniles Act 1974 or the Penal Code 1949, and the Constitution 2012 prohibits torture and

⁴ 8 February 2012, CRC/C/SYR/CO/3-4, Concluding observations on third/fourth report, para. 12

⁵ 13 August 2015, A/HRC/30/48, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, paras. 72 and 90-98

humiliating treatment (art. 53). However, flogging and whipping are being inflicted for Islamic offences under the regime imposed by ISIL in the context of the conflict.⁶

3 Recommendations by human rights treaty bodies

3.1 **CRC:** The Committee on the Rights of the Child has three times recommended to Syria that all corporal punishment of children be prohibited, including in the home – in its concluding observations on the initial report in 1997,⁷ on the second report in 2003⁸ and on the third/fourth report in 2012.⁹

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 since 2011 the Committee on the Rights of Persons with Disabilities.

⁶ 9 March 2014, “Syrian women face whipping and execution for breaking Sharia dress code”, *International Business Times* (www.ibtimes.co.uk/syrian-women-face-whipping-execution-breaking-sharia-dress-code-1439519, accessed 14 March 2014)

⁷ 24 January 1997, CRC/C/15/Add.70, Concluding observations on initial report, paras. 17 and 28

⁸ 10 July 2003, CRC/C/15/Add.212, Concluding observations on second report, paras. 36 and 37

⁹ 8 February 2012, CRC/C/SYR/CO/3-4, Concluding observations on third/fourth report, paras. 53, 54, 71 and 72