

Corporal punishment of children in the Syrian Arab Republic: Briefing for the Universal Periodic Review, 40th session, 2022

From the Global Partnership to End Violence Against Children, July 2021



This submission provides an update on the legality of corporal punishment of children in the Syrian Arab Republic since its review in the second cycle UPR in 2016. Corporal punishment prohibition is still to be fully achieved in the home, alternative care settings, day care, schools and in penal institutions.

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 prohibit it by the Committee on the Rights of the Child.

We hope the Working Group will note with concern the legality of corporal punishment of children in the Syrian Arab Republic. We hope states will raise the issue during the review in 2022 and make a specific recommendation that the Syrian Arab Republic enact a legislation to clearly prohibit all corporal punishment of children in every setting of their lives and repeal legal defences for the use of corporal punishment included in the Penal Code 1949 and the Personal Status Act 1953.

1 Review of the Syrian Arab Republic in the 2nd cycle UPR (2016) and progress since

- 1.1 The Syrian Arab Republic was reviewed in the second cycle of the Universal Periodic Review in 2016 (session 26) and no recommendation was issued specifically on corporal punishment of children.
- 1.2 Since the review, the Government reported that a draft law on children's rights was almost completed.¹ In November 2018, the Bill was finalised and discussed by the People's Assembly.² We do not know if the Bill would prohibit corporal punishment.

¹ 17 November 2016, A/HRC/WG.6/26/L.2, Draft report of the Working Group, para. 11

² 1 November 2017, CRC/C/SYR/5, Fifth report, para. 13; 9 November 2018, CRC/C/SYR/Q/5/Add.1, Reply to list of issues, para. 1

- 1.3 We hope the Working Group will note with concern the legality of corporal punishment of children in the Syrian Arab Republic. We hope states will raise the issue during the review in 2022 and make a specific recommendation that the Syrian Arab Republic enact a legislation to clearly prohibit all corporal punishment of children, however light, in every setting of their lives, and repeal legal defences for its use included in the Penal Code 1949 and the Personal Status Act 1953, as a matter of urgency.

2 Legality of corporal punishment in the Syrian Arab Republic

Summary of current law and opportunities for achieving prohibition

Corporal punishment of children in the Syrian Arab Republic is lawful in the home, alternative care settings, day care, schools and penal institutions. The legal defences for the use of corporal punishment in the Penal Code 1949 and the Personal Status Act 1953 should be repealed and replaced with prohibition of all corporal punishment, however light and whoever the perpetrator.

- 2.1 ***Home (lawful)***: Corporal punishment is lawful in the home. 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). The Government has stated that the term “discipline” in article 170 had “educational overtones” and did not refer to “beating or torture”.³ The Government also reported in 2017, in relation to corporal punishment of children, that domestic law prohibited “beatings or torture of any kind against children”.⁴ However, the near universal social acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment can be considered appropriate or lawful and there is no explicit prohibition of all corporal punishment of children.
- 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 (see under “Home”).
- 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 (see under “Home”).
- 2.4 ***Schools (lawful)***: Corporal punishment is lawful in schools under the Penal Code 1949 (see under “Home”). 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,⁵ but there is no explicit prohibition of corporal punishment in law.

³ 1 November 2017, CRC/C/SYR/5, Fifth report, para. 83

⁴ 1 November 2017, CRC/C/SYR/5, Fifth report, para. 83

⁵ 1 November 2017, CRC/C/SYR/5, Fifth report, para. 85

2.5 **Penal institutions (lawful):** Corporal punishment is lawful in penal institutions. It is not explicitly prohibited in law, and severe beatings and other ill-treatment of detainees, including children, have been documented.⁶

2.6 **Sentence for crime (unlawful):** Corporal punishment is unlawful as a sentence for crime. There is no provision for it in the Juveniles Act 1974 or the Penal Code 1949. The Constitution 2012 prohibits torture and humiliating treatment (art. 53). However, in 2014 there were reports that flogging and whipping were being inflicted for Islamic offences under a regime imposed by the Islamic State in Iraq and Sham (Isis) in the context of the Syrian conflict.⁷

3 Recommendations by human rights treaty bodies

3.1 **CRC:** On four occasions, the Committee on the Rights of the Child has expressed concern at corporal punishment of children in the Syrian Arab Republic and recommended it be explicitly prohibited in all settings – in its concluding observations on the state party’s initial report in 1997,⁸ in the state party’s second report in 2003,⁹ in the state party’s third-fourth report in 2012¹⁰ and in the state party’s fifth report in 2019.¹¹

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

www.endcorporalpunishment.org; secretariat@end-violence.org

⁶ 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

⁷ 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)

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

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

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

¹¹ 1 February 2019, CRC/C/SYR/CO/5 Advance unedited version, Concluding observations on fifth report, para. 29