

Corporal punishment of children in Bahrain

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Child population 347,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal
Punishment of Children**

Bahrain's commitment to prohibiting corporal punishment

Bahrain expressed its commitment to legally prohibit all corporal punishment of children, including in the home, by clearly accepting a recommendation to do so extended during the Universal Periodic Review of Bahrain in 2017.

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, alternative care settings, day care and penal institutions.

Article 16 of the Penal Code 1976 states that “nothing is an offence which is done in exercise of a right justified by law or custom”, article 133 of the Family Code 2017 may refer to “disciplining” of the child (information unconfirmed), and laws against violence and abuse are not interpreted as prohibiting corporal punishment of children. Until 1971, Bahrain was a British protectorate and it is likely that this relationship with the UK entailed an acceptance of the common law defence of “reasonable chastisement”. The near universal acceptance of corporal punishment in childrearing necessitates a clear statement in law that all forms of corporal punishment and other cruel and degrading treatment are unacceptable, however light, whatever the relationship between the child and adult, and whatever the setting, together with repeal of all legal defences for its use.

Alternative care settings – Prohibition should be enacted in legislation applicable to all alternative care settings (foster care, institutions, places of safety, emergency care, etc).

Day care – Corporal punishment should be prohibited in all early childhood care (nurseries, crèches, kindergartens, preschools, family centres, etc) and all day care for older children (day centres, after-school childcare, childminding, etc).

Penal institutions – Prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Until 1971, Bahrain was a British protectorate and it is likely that this relationship with the UK entailed an acceptance of the common law defence of “reasonable chastisement”. Article 16 of the Penal Code 1976 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 and the Domestic Violence Law No. 17/2015 are not interpreted as prohibiting corporal punishment in childrearing. The Children’s Act 2012 states that the State must protect children from abuse and neglect (art. 42), defining abuse with reference to direct or indirect harm to the child (art. 44). The Act does not prohibit corporal punishment.

According to information provided to the Human Rights Committee in 2018, the Family Code No. 19 of 2017 is only applicable to Muslims citizens.¹ However the Government later stated that the Family Code applied to “families without distinction”.² It appears article 133 of the Family Code refers to fathers and guardians “disciplining” of the child (information unconfirmed). A Law on Personal Status was under discussion in 2011: we have no further details.

In 2017, the Government of Bahrain accepted a recommendation extended during its Universal Periodic Review to enact a legal ban of all corporal punishment of children, making a clear commitment to enacting law reform.³

Alternative care settings

Corporal punishment is lawful in alternative care settings under article 16 of the Penal Code 1976 (see under “Home”).

The Government reported in 2018 that corporal punishment was prohibited in the “rules of procedure of Batelco Child Care Centre [a state-run home for children] ... irrespective of its purpose and degree of severity”.⁴ However this is internal policy, not legislation, and does not apply to all alternative care settings.

Day care

Corporal punishment is lawful in early childhood care and in day care for older children under article 16 of the Penal Code 1976 (see under “Home”).

Schools

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. The Education Act 2005 is silent on the issue. In reporting to the UN Committee on the Rights of the Child in 2010, the Government stated that the then Children’s Bill included prohibition of physical violence and humiliating or degrading

¹ 27 April 2018, CCPR/C/BHR/Q/1/Add.1, Reply to list of issues, para. 31

² 14 November 2018, CRC/C/BHR/Q/4-6/Add.1, Reply to list of issues, para. 8

³ 15 September 2017, A/HRC/36/3/Add.1, Report of the working group: Addendum, Advance version, para. 11

⁴ 16 March 2018, CRC/C/BHR/4-6, Fourth/sixth report, para. 78

treatment in schools.⁵ The Children’s Act as passed in 2012 provides for the right to education but does not explicitly prohibit corporal punishment.

Penal institutions

There is no explicit prohibition of corporal punishment as a disciplinary measure in penal institutions.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. Under article 32 of the Penal Code 1976, young persons under 15 can be subject only to the measures in the Juveniles Act 1976, which do not include corporal punishment (art. 6). Persons over 15 are tried as adults and sentenced under the Penal Code, article 70 of which states that being aged 15-18 years is a mitigating circumstance warranting adjusted sentences. There is no provision for judicial corporal punishment in the Penal Code or in the Law No. 18 of 2017 on alternative sanctions and measures. The Constitution states that Shari’a is “a principal source for legislation” (art. 2). We have found no indication that this applies to criminal law and sentencing.

A Correctional Justice Bill is being drafted to bring domestic legislation in line with international obligations.⁶

Universal Periodic Review of Bahrain’s human rights record

Bahrain was examined under the Universal Periodic Review in 2008 (session 1). No recommendations were made specifically concerning corporal punishment of children.

Bahrain’s examination in the second cycle took place in 2012 (session 13). During the review, Uzbekistan asked for information regarding measures adopted to prohibit all forms of corporal punishment.⁷ No recommendation was made specifically on corporal punishment. However, the following recommendations were made:⁸

“Incorporate into national law Bahrain’s obligations under the International Covenant on Civil and Political Rights, the Convention against Torture and the Convention on the Rights of the Child (Belgium);

“Explicitly criminalize torture and other cruel and inhuman treatment (Spain);

“To reflect in domestic law-in particular the Penal Code and Code of Criminal Procedure-Bahrain’s obligations under international human rights laws and conventions (United Kingdom);

“Enhance the protection for child rights by issuing the child law (Sudan).”

⁵ 25 March 2010, CRC/C/BHR/2-3, Second/third state party report to the Committee on the Rights of the Child, para. 199

⁶ 14 November 2018, CRC/C/BHR/Q/4-6/Add.1, Reply to list of issues, para. 1

⁷ 6 July 2012, A/HRC/21/6, Report of the working group, para. 38

⁸ 6 July 2012, A/HRC/21/6, Report of the working group, paras. 115(21), 115(22), 115(23) and 115(29)

The Government accepted the recommendations, stating that it is “currently reconciling national laws against international covenants ratified by Bahrain” and that the new Children’s Act was passed by Parliament in May 2012.⁹

Third cycle examination took place in May 2017 (session 27). The following recommendation was made:¹⁰

“Prohibit by law corporal punishment against children in all settings and contexts, including in the home, and repeal all exceptions to its use (Mexico)”

The Government supported the recommendation.¹¹

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(1 February 2019, CRC/C/BHR/CO/4-6 Advance unedited version, Concluding observations on fourth/sixth report, para. 28)

“While noting the implementation of awareness-raising programmes on positive forms of child-rearing, the Committee is concerned that corporal punishment is still permitted in alternative care settings, in the home and in the administration of justice, and urges the State Party to:

(a) Explicitly prohibit, through legislative and administrative provisions, the use of corporal punishment, however light, in all settings, including early childhood care institutions, alternative care settings, in the home and in the administration of justice, and ensure that its prohibition is adequately monitored and enforced in all settings;

(b) Strengthen and expand new and existing awareness-raising programmes, including campaigns, among parents, teachers and relevant professional groups to promote positive, non-violent and participatory forms of child-rearing and discipline, and to promote a change in the mindset with regard to corporal punishment in all settings.”

Committee on the Rights of the Child

(3 August 2011, CRC/C/BHR/CO/2-3, Concluding observations on second/third report paras. 44, 45 and 46)

“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.

“The Committee urges the State party to ensure the prohibition of corporal punishment in all settings, including in the home. The Committee further strongly recommends that the State party conduct awareness-raising programmes to ensure that alternative forms of discipline are used, in a manner consistent with the dignity of the child, drawing the State party’s attention to general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and to seek assistance from religious and community leaders in this respect.

⁹ 13 September 2012, A/HRC/21/6/Add.1, Report of the working group: Addendum, paras. 14 and 22

¹⁰ 3 May 2017, A/HRC/WG.6/27/L.1, Draft report of the Working Group, Advance unedited version, para. 6(160)

¹¹ 15 September 2017, A/HRC/36/3/Add.1, Report of the working group: Addendum, Advance version, para. 11

“With reference to the United Nations Study on Violence against Children (A/61/299), the Committee recommends that the State party:

a) take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations Study on Violence against Children, while taking into account the outcome and recommendations of the regional consultation for the Middle East and North Africa held in 2005, paying particular attention to gender, and:

(i) prohibit all forms of violence against children in all settings, including all corporal punishment....”

Committee on the Rights of the Child

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

“The Committee welcomes information ... that the Bahrain Institute for Science has been commissioned to undertake a national study on child abuse. Nevertheless, it is concerned that there is insufficient awareness of the ill-treatment of children within the family, as well as domestic violence and its impact on children.

“The Committee recommends that the State party:

a) ensure that the study is comprehensive, assesses the nature and extent of ill-treatment and abuse of children, as well as domestic violence, and that it is used to design policies and programmes to address this issue;

b) take legislative measures to prohibit all forms of violence, including corporal punishment and sexual abuse of children in the family, schools and in other institutions;

c) carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment...”

Committee Against Torture

(29 May 2017, CAT/C/BHR/CO/2-3, Concluding observations on second/third report, paras. 36 and 37)

“The Committee is concerned at reports that corporal punishment of children is still permitted in the home, in alternative care and day-care settings and in penal institutions (arts. 2, 4 and 16).

“The State party should enact legislation to explicitly and clearly prohibit corporal punishment in all settings.”

Prevalence/attitudinal research in the last ten years

None identified.