

Corporal punishment of children in Syrian Arab Republic

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Child population 8,206,000 (UNICEF, 2015)

Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved 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The legal defences for the use of corporal punishment in the Penal Code 1949 and the Personal Status Act 1953 should be repealed and replaced with prohibition of all corporal punishment, however light and whoever the perpetrator.

Alternative care settings – Prohibition should also be enacted in relation 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).

Schools – Ministerial decisions and orders to schools against the use of corporal punishment should be confirmed in law by clearly prohibiting all corporal punishment in all education settings, at all levels.

Penal institutions – Prohibition of corporal punishment should be enacted in relation to disciplinary measures in all institutions accommodating children in conflict with the law.

Current legality of corporal punishment

Home

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”.¹ 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”.² 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.

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 2006.³ The Government reported in 2016 that the draft law on children’s rights was almost completed.⁴ In November 2018, the draft Bill was finalised and discussed by the People’s Assembly.⁵ We do not know if the Bill would prohibit corporal punishment.

Alternative care settings

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”).

Day care

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”).

Schools

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,⁶ but there is no explicit prohibition of corporal punishment in law.

Penal institutions

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.⁷

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

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

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

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

⁵ 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

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

⁷ 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

Sentence for crime

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.⁸

Universal Periodic Review of Syria's human rights record

The Syrian Arab Republic was examined in the first cycle of the Universal Periodic Review in 2011 (session 12). No recommendation was made specifically concerning corporal punishment of children. However, the following recommendations were made and were accepted by the Government:⁹

“Continue to harmonise its domestic laws with the international human rights conventions to which it is party, in line with democratic principles and fundamental freedoms and equality (Indonesia);

“Bring national laws fully into line with its obligations under ICCPR, CEDAW, CAT and CRC (Maldives);

“Maintain the positive momentum in improving legislation and institutions, and ensure the execution of its laws in practice, in particular in the areas of education, women rights, childhood, persons with disabilities and victims of trafficking in persons (Venezuela);

“Strengthen efforts to prevent violence against and abuse of children (Bangladesh)”

Examination in the second cycle took place in 2016 (session 26). No recommendation was issued specifically on corporal punishment of children. The following recommendations on children's rights were made and accepted:¹⁰

“Enact the Child Rights Bill (Maldives); Protect the rights of children (Pakistan); Continue to protect human rights and especially the rights of children (Angola); Guarantee effective protection of child rights, including access to education and protection from child labor (Belgium); Implement and strengthen measures to protect the rights of the child, including preventing and combating the recruitment of child soldiers and trafficking in children (Singapore)”

The Syrian Arab Republic will be examined in the third cycle in 2021.

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

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

“The Committee is concerned that the interpretation of article 170 of the Personal Status Code is not clear and corporal punishment remains legal, and that violent discipline and violence at home is prevalent in the State party. With reference to its general comment No. 8 (2006) on corporal punishment, and recalling its previous recommendation (CRC/C/SYR/CO/3-4, para. 54), the Committee recommends that the State party:

⁸ 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)

⁹ A/HRC/19/11, Report of the working group, paras. 100(1) 100(2), 100(3) and 100(41)

¹⁰ 17 November 2016, A/HRC/WG.6/26/L.2, Draft report of the Working Group, paras. 109(16), 109(93), 109(94), 109(182), and 109(186); 13 March 2017, A/HRC/34/5/Add.1, Report of the Working Group: Addendum

(a) Explicitly prohibit corporal punishment in all settings, and repeal without further delay article 170 of the Personal Status Code and the provisions of the Penal Code that authorize corporal punishment of children;

(b) Strengthen public education, awareness-raising and social mobilization programmes on the harmful effects, both physical and psychological, of corporal punishment, and promote positive, non-violent and participatory forms of child-rearing and discipline.”

Committee on the Rights of the Child

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

“While welcoming the circulars issued by the Ministry of Education to prohibit the use of physical and verbal violence in schools, the Committee remains concerned that corporal punishment by teachers and parents is explicitly authorized by the Penal Code and article 170 of the Personal Status Code and widely used in the family, schools and alternative care settings. The Committee is also concerned that there is no explicit prohibition of corporal punishment as a disciplinary measure in alternative care settings and in penal institutions.

“In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee, recalls its previous recommendation (CRC/C/15/Add.212, para. 37), and urges the State party:

a) to repeal article 170 of the Personal Status Code and the provisions of the Penal Code that authorize corporal punishment;

b) to prohibit unequivocally by law and without any further delay corporal punishment in the family, schools and alternative care settings and penal institutions;

c) to ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible for ill-treating children;

d) to introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, communities and religious leaders, on the harmful effects, both physical and psychological, of corporal punishment, with a view to changing the general attitude towards this practice, and to promote positive, non-violent and participatory forms of child-rearing and discipline as an alternative to corporal punishment;

e) to ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against violence and other forms of abuse.

“The Committee commends the State party for the significant progress achieved over the years in the areas of school enrolment, literacy and gender parity in primary education. The Committee also welcomes the incentive given to teachers working in remote areas, the institution of mobile schools to reach children in remote and desert areas, and the measures taken to grant access to education to and vocational training for a high number of refugee children. The Committee is however concerned about: ...

d) corporal punishment and psychological violence, which are still considered as a tool for childhood discipline, and teachers and administrators who are not sufficiently trained in the use of alternatives forms of discipline.

“In the light of its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party: ...

e) take all the necessary measures to eliminate corporal punishment in schools and ensure, through appropriate public education and professional training, positive, participatory and non-violent forms of discipline....”

Committee on the Rights of the Child

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

“The Committee regrets that little progress has been made in the State party in studying and raising awareness of ill-treatment of children within the family, as well as domestic violence and its impact on children. Moreover, it is concerned that corporal punishment in schools is not prohibited by law.

“The Committee recommends that the State party:

- a) conduct a comprehensive study to assess the nature and extent of ill-treatment and abuse of children, as well as domestic violence, and that it uses the results of the study to design policies and programmes to address this issue;
- b) take the necessary measures to prevent child abuse and neglect (e.g. educational public campaigns about the negative consequences of ill-treatment of children, parenting classes) and promote positive, non-violent forms of discipline as an alternative to corporal punishment;
- c) take legislative measures to prohibit all forms of violence, including corporal punishment and sexual abuse of children in the family, schools and other institutions; ...”

Committee on the Rights of the Child

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

“The Committee is concerned at the lack of appropriate measures to combat and prevent ill-treatment and abuse within the family and to provide physical and psychological recovery and social reintegration to children victims of such ill-treatment and abuse, and at the lack of information provided on this matter. The Committee also notes with concern that disciplinary measures in schools often consist of corporal punishment although it is prohibited by law.

“The Committee recommends that special attention be paid by the authorities to the problem of ill-treatment and abuse of children within the family and of corporal punishment in schools. In this regard, the Committee stresses the need for information and education campaigns to prevent and combat the use of any form of physical or mental punishment within the family or in schools, as well as for the establishment of a complaint mechanism intended to benefit children victims of such ill-treatment or abuse.”

Prevalence/attitudinal research in the last ten years

A report based on more than 200 interviews with former detainees and defectors from the Syrian military and intelligence agencies, conducted between April 2011 and May 2012, documented 12 cases of detention and torture of children by the security forces. As at 22 June 2012, local activists had recorded the detention of 635 children.

(Human Rights Watch (2012), *Torture Archipelago: Arbitrary Arrests, Torture, and Enforced Disappearances in Syria's Underground Prisons since March 2011*, NY: Human Rights Watch)

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