



End Violence
Against Children



End Corporal
Punishment

Corporal punishment of children in Kuwait

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Child population 1,058,000 (UNICEF, 2020)

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 29 of the Criminal Code and article 6 of the Child Rights Act provide for the “right” of parents to discipline children and legal provisions against violence and assault are not interpreted as prohibiting all corporal punishment. The near universal acceptance of corporal punishment in “disciplining” children necessitates clarity in law that no degree or kind of such punishment is acceptable or lawful. Article 29 of the Criminal Code should be repealed, and prohibition enacted of all corporal punishment, however light and whoever the perpetrator.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).

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

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Under examination by the Human Rights Committee in 2011, the Government indicated that corporal punishment is unlawful under the Criminal Code Act No. 16 1960.¹ However, article 29 of the Criminal Code provides for the right of parents to discipline their children, and provisions against violence and abuse in the Criminal Code 1960, the Juveniles Act No. 3 1983, Law No. 413/2009 obliging all physicians to report physical and psychological violence against children, the Personal Status Act No. 51 1984 and the Constitution 1962 are not interpreted as prohibiting corporal punishment in childrearing.

In 2013 a draft Child Act was under discussion which reportedly included prohibition of cruel, inhuman or degrading treatment by persons with authority over a child, including in the home, schools and institutions.² However, in 2015 the Government accepted recommendations to prohibit all corporal punishment made during the Universal Periodic Review of Kuwait but also referred to the authority of the guardian with regard to “simple discipline in accordance with article 6 of the Child Rights Act” (unofficial translation).³ The Child Rights Act No. 21 of 2015 provides in article 3 for the “protection of children from all forms of violence, harm and physical, mental or sexual abuse, including neglect, failure of care and other forms of ill-treatment or exploitation”.⁴ Article 6 of the Acts allows for “basic” chastisement that is not “harmful” (unofficial translation) – this provides a defence for the use of so-called “light” corporal punishment in childrearing.

In reporting to the Committee on the Rights of the Child, the Government stated that Law No. 9/2010 on the protection of children from violence and exploitation protects children from all types of abuse.⁵ We have yet to see the text of this law but indications are that it does not explicitly prohibit all corporal punishment in childrearing. A Bill on Domestic Violence is under discussion.⁶

Alternative care settings

Corporal punishment is lawful in alternative care settings. There is no explicit prohibition in law – including in the Juveniles Act 1983 and the Family Fostering Act No. 82 1977 and the Children’s Nurseries Act No. 111 2000 – and the right of parents to discipline children in article 29 of the Criminal Code 1960 (see under “Home”) presumably applies to all with parental authority.

In 2017, the Government reported that the regulations on the homes and institutions providing “residential care for all persons with special needs, including children, whether they are minors, of unknown parentage or have disabilities” prohibit “the use of corporal or psychological punishment”.⁷ We have however been unable to identify such a prohibition in laws or regulations.

Day care

Corporal punishment is lawful in early childhood care and in day care for older children. There is no explicit prohibition in law – including in the Juveniles Act 1983 and the Children’s Nurseries Act No. 111 2000 – and the right of parents to discipline children in article 29 of the Criminal Code 1960 (see under “Home”) presumably applies to all with parental authority.

¹ 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Reply to list of issues, para. 99

² 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6; see also 13 April 2015, A/HRC/29/17, Report of the working group, para. 7

³ 4 June 2015, A/HRC/29/17/Add.1, Report of the working group: Addendum

⁴ 17 August 2015, CAT/C/KWT/3, Third report, para. 133

⁵ 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

⁶ 13 November 2019, A/HRC/WG.6/35/KWT/1, National report to the UPR, para. 3

⁷ 6 July 2017, CEDAW/C/KWT/Q/5/Add.1, Reply to list of issues, para. 7

Schools

Corporal punishment is unlawful in schools. During examination by the Committee on the Rights of the Child in 1998, the Government stated that a statute dating back to the 1960s prohibited corporal punishment by teachers or school principals.⁸ In 2011, the Government informed the Human Rights Committee that corporal punishment is prohibited by statute;⁹ a similar statement was made to the Committee on the Rights of the Child.¹⁰ In reporting to the Universal Periodic Review in 2015, the Government stated that the prohibition is included in the School System Regulations, which states in the Preamble that “corporal punishment and hurtful or humiliating remarks are totally inadmissible; a calm, impassive and even-tempered approach must be adopted; penalties should be imposed in a fair and equitable manner and not on the basis of mere suspicion; punishment must be viewed within a proper pedagogic context and should be carefully designed to prevent, correct and remedy unacceptable modes of behaviour; if a student’s personality or educational performance is adversely affected by the imposition of any form of punishment, the school’s psychosociologist must study the case and formulate a remedial course of action”.¹¹

Penal institutions

Corporal punishment is lawful as a disciplinary measure in penal institutions under the Prison Regulation Act No. 26 of 1962. The Government reported to the Committee Against Torture in 2015 that prisoners could be subjected to corporal punishment for breaching prison regulations and that “strict controls” were placed upon these punishments. The Government also reported that the Ministerial Decision No. 42 of 2004 did not include corporal punishment as a sanction for “breaches or misconduct” in a “juvenile care facility”.¹² However this is policy and does not include explicit prohibition – it is unclear how this affects the provisions of the Prison Regulation Act. There is no explicit prohibition in the Juveniles Act 1983.

Sentence for crime

Corporal punishment is unlawful as a sentence for crime. There is no provision for it in the Juveniles Act 1983, the Criminal Code 1960 or the Criminal Procedure Code 1960. Article 31 of the Constitution 1962 prohibits torture and degrading treatment. In 2001 draft legislation was under discussion which would have amended the Criminal Code to comply with Islamic law, including penalties of amputation and flogging. The Code has been amended a number of times since 2001 but it appears that Islamic punishments have not been enacted (unconfirmed). Juvenile Justice Act no. 11 of 2015 has now been passed and does not address corporal punishment.¹³

Universal Periodic Review of Kuwait’s human rights record

Kuwait was examined in the first cycle of the Universal Periodic Review in 2010 (session 8). The following recommendation was made and was accepted by the Government:¹⁴

“Take appropriate measures and introduce legislation which would prohibit corporal punishment of children (Slovenia)”

The second cycle review took place in 2015 (session 21). In its national report, the Government described the Regulation prohibiting corporal punishment in schools.¹⁵ During the review, the following recommendations were made:¹⁶

⁸ 2 October 1998, CRC/C/SR.489, Summary record of 489th meeting, para. 8

⁹ 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Reply to list of issues, para. 101

¹⁰ 5 August 2013, CRC/C/KWT/Q/2/Add.1, Reply to list of issues, Q6

¹¹ 3 November 2014, A/HRC/WG.6/21/KWT/1, National report to the UPR, para. 31

¹² 17 August 2015, CAT/C/KWT/3, Third report, paras. 130, 132 and 134

¹³ 21 April 2016, CCPR/C/KWT/Q/3/Add.1, Reply to the list of issues on third report

¹⁴ 16 June 2010, A/HRC/15/15, Report of the working group, para. 79(10)

¹⁵ 3 November 2014, A/HRC/WG.6/21/KWT/1, National report to the UPR, para. 31

¹⁶ 13 April 2015, A/HRC/29/17, Report of the working group, paras. 157(146), 157(147), 157(148) and 157(149)

“Prohibit corporal punishment of children at home and other alternative care settings, as it had committed to do in the UPR (Albania);

“Prohibit corporal punishment of children in all settings (Slovenia);

“Approve the new Law on Childhood and include the prohibition of corporal punishment in all settings (Uruguay);

“Eliminate corporal punishment as a disciplinary measure in the home and take measures to establish a complaints and investigation procedure for acts of violence against children (Mexico)”

The Government accepted the recommendations but in doing so noted “the authority of the guardian in the simple discipline in accordance with article 6 of the Child Rights Act” (unofficial translation).¹⁷

Third cycle examination took place in 2020 (session 35). No recommendation was made specifically on corporal punishment, but the Government accepted¹⁸ the following recommendations:¹⁹

“Prohibit domestic violence and sexual harassment against women and children and ensure that women have equality before the law (Croatia)”

“Continue to implement policies and programmes for combating all forms of domestic violence against women and children, including violence against domestic workers (Myanmar)”

“Continue to implement policies and programs for combating all forms of domestic violence against women and children, including violence against domestic workers (Serbia)”

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(19 October 2022, CRC/C/KWT/CO/3-6, Concluding observations on third to sixth reports, paras. 24 and 25)

‘While noting the explanation by the State party that article 6 of the Child Rights Act, in conjunction with article 29 of the Criminal Code, cannot be used as a justification to harm children, it remains deeply concerned that such legal provisions can be misinterpreted by parents, teachers and other caregivers to justify the use of corporal punishment.

“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, and recalling its previous recommendation, the Committee urges the State party to: (a) Repeal or amend all legal provisions, including article 6 of the Child Rights Act and article 29 of the Criminal Code, so that they cannot be interpreted as a justification for the use of corporal punishment; (b) Explicitly prohibit in law, as a matter of priority, corporal punishment in all settings, including in the home and childcare institutions, and enforce the prohibition; (c) Strengthen awareness-raising programmes for parents and professionals working with and for children to promote attitudinal change within the family and at the community level regarding corporal punishment and to promote positive, non-violent and participatory forms of child-rearing and effective classroom management.”

Committee on the Rights of the Child

(29 October 2013, CRC/C/KWT/CO/2, Concluding observations on second report, paras. 41 and 42)

¹⁷ 4 June 2015, A/HRC/29/17/Add.1, Report of the working group: Addendum

¹⁸ 24 June 2020, A/HRC/44/17/Add.1, Report of the working group: Addendum

¹⁹ 6 February 2020, A/HRC/WG.6/35/L.14 Unedited version, Draft report of the Working Group, paras. 157(225), 157(243) and 157(249)

“The Committee welcomes the information that corporal punishment of children is strictly prohibited in the school system and that clear instructions have been provided to all school staff in this respect. The Committee is however concerned that article 26 of Act No. 16/1960 (the Penal Code) provides for the right of a person to discipline a child, if that person is authorized by law to do so, on the condition that boundaries are maintained and the intention of the beating is directed solely towards disciplining, and that corporal punishment remains lawful in home and in alternative care settings. The Committee is further concerned that violence in schools, including the use of corporal punishment by teachers, has been increasing in all six governorates of the country.

“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 urges the State party to repeal article 26 of Act No. 16/1960 and prohibit corporal punishment unequivocally in all settings as it committed to do in 2010 in the framework of the universal periodic review (A/HRC/15/15, para. 79.10). The State party should also:

- a) 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; promote positive, non-violent and participatory forms of child-rearing and discipline; and establish a child-friendly complaints mechanism;
- b) take active measures to address violence in schools; and
- c) ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against corporal punishment of children.”

Committee on the Rights of the Child

(26 October 1998, CRC/C/15/Add.96, Concluding observations on initial report, para. 21)

“The Committee expresses its concern about the lack of a specific prohibition in domestic legislation of the use of corporal punishment. The Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment in schools, in the family and other institutions, and in society at large. The Committee also suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child’s human dignity and in conformity with the Convention, in the light of article 28.2 of the Convention.”

Committee Against Torture

(28 June 2011, CAT/C/KWT/CO/2, Concluding observations on second report, para. 11)

“While noting that for the period of 2001 – 2011 there were 632 trials on cases of torture, ill-treatment and corporal punishment, and that in 248 cases sentences perpetrators were punished, the Committee however notes that the State party failed to provide information on the exact types of penalties applied to the convicted perpetrators (arts. 4, 12 and 13).

The Committee requests the State party to provide information, including statistics, on the number of complaints filed against public officials on torture and ill-treatment, as well as about the results of the proceedings, at both the penal and disciplinary levels, with examples of relevant sentences.”

Committee on the Elimination of Discrimination Against Women

(17 November 2017, CEDAW/C/KWT/CO/5 Advance unedited version, Concluding observations on fifth report, paras. 14 and 15)

“... The Committee regrets the persistence of discriminatory provisions in the State party’s legislation, and is further concerned by the explanation provided by the State party that any revision of discriminatory provisions related to polygamy, divorce, child custody, inheritance, guardianship of men over women and child marriage would contravene Sharia law, the national Constitution and other relevant legislation. The Committee is particularly concerned about the following provisions: ...

b. Provisions in the Penal Code, including the reduction of sentences for men who kill a woman in the name of so-called honour (article 153), permission to physically discipline a person (article 29) and non-imposition of criminal charges against a kidnapper and rapist who marries his victim with the consent of her guardian (article 182)

“In accordance with its General Recommendations No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, the Committee urges the State party to: ...

c. Abolish articles 29, 153, and 182 of the Penal Code...”

Committee on the Rights of Persons with Disabilities

(18 October 2019, CRPD/C/KWT/CO/1, Concluding observations on initial report, paras. 30 and 31)

“The Committee is concerned about:

(a) The lack of measures to prevent the torture and cruel, inhuman or degrading treatment or punishment of persons with disabilities, including non-consensual medical treatment in detention and corporal punishment in all settings;

(b) Conditions of detention of persons with disabilities, in particular persons with disabilities awaiting execution, that amount to cruel, inhuman or degrading treatment or punishment...

“The Committee recommends that the State party:

(a) Prohibit all forms of corporal punishment in all settings, ensure that persons with disabilities receive medical treatment on the basis of their free and informed consent and train mental health professionals, law enforcement and prison officials on respecting the rights of persons with disabilities in mental health facilities, prisons and detention centres;

(b) Guarantee that the conditions of detention of persons with disabilities, in particular persons with disabilities awaiting execution, respect the inherent dignity of those detained...”

Prevalence/attitudinal research in the last ten years

None identified.

End Corporal Punishment is a critical initiative of the Global Partnership to End Violence Against Children. Previously known as The Global Initiative to End All Corporal Punishment of Children, we act as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We track global progress, support and hold governments to account, partner with organisations at all levels, and engage with human rights treaty body systems.