

Corporal punishment of children in Qatar

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Child population 450,000 (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, schools and as a sentence for crime.

There appears to be no confirmation in the Penal or Family Codes of a “right” of parents and others to use corporal punishment in childrearing, but legal provisions against violence and assault are not interpreted as prohibiting all corporal punishment. Until 1971, Qatar 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 “disciplining” children necessitates clarity in law that no degree or kind of such punishment is acceptable or lawful. Legal defences of “reasonable chastisement” or similar – in legislation or common law – should be explicitly repealed, and prohibition enacted of all corporal punishment, however light and whoever the perpetrator.

Alternative care settings – Corporal punishment should be prohibited in 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 – The policy against the use of corporal punishment in schools should be confirmed through the enactment of legislation which clearly prohibits all corporal punishment in all education settings – public and private, religious and secular, and at all levels of education.

Sentence for crime – All judicial corporal punishment of persons under 18 at the time of the offence should be prohibited, including under Islamic Shari’a.

Current legality of corporal punishment

Home

Corporal punishment is lawful in the home. Until 1971, Qatar 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”. Provisions against violence and abuse in the Criminal Code 2004, the Code of Criminal Procedure 2004, the Civil Code 2004, the Juveniles Act 1994, the Family Code 2006 and the Constitution 2003 are not interpreted as prohibiting all corporal punishment in childrearing.

In responding to recommendations on corporal punishment of children made during the Universal Periodic Review of Qatar in 2010, the Government stated that the recommendation to prohibit all forms of corporal punishment “has been put into effect”.¹ We have been unable to verify this statement. In reporting to the UPR in 2014, the Government addressed only corporal punishment in schools (see under “Schools”). Qatar ratified the International Covenant on Civil and Political Rights in May 2018 but made a statement upon accession that it would “interpret the term “punishment” in Article 7 of the Covenant in accordance with the applicable legislation of Qatar and the Islamic Sharia”, thus attempting to avoid a ban on corporal punishment.

Reporting to the Committee on the Rights of the Child in June 2016, and again in May 2017, the Government stated that a Children’s Bill had been reviewed and would shortly be promulgated² – we do not know whether prohibition of all corporal punishment is envisaged in this context. The National Human Rights Committee’s 2019 shadow report to the Universal Periodic Review reported that the Children’s Bill had been under discussions since 2012 and recommend enacting it as a matter of priority.³

Alternative care settings

There is no explicit prohibition of corporal punishment in alternative care settings.

Day care

There is no explicit prohibition of corporal punishment in early childhood care and in day care for older children. The 2014 Act regulating Nurseries does not prohibit the use of corporal punishment.

Schools

The Code of Conduct for schools states that corporal punishment should not be used and there is a Ministerial Decree 2001 against its use, but there is no explicit prohibition in law. In reporting to the Universal Periodic Review of Qatar in 2014, the Government stated that in 2013 a Ministerial Decree against all violence in schools was adopted.⁴ The Government declared in 2019 that sanctions in schools did not “include practices that are inconsistent with human rights such as violence or corporal punishment”.⁵ Act No. 25 on compulsory education is silent on the issue.

Penal institutions

Corporal punishment is unlawful as a disciplinary measure in penal institutions. The Act regulating penal and correctional institutions, Act No. 3 2009, does not include corporal punishment among permitted disciplinary measures. It repeals the Prisons Act, Act No. 3 1995, which authorised flogging.

¹ 1 June 2010, A/HRC/14/2/Add.1, Report of the working group: Addendum, pages 3 and 4

² 24 June 2016, CRC/C/QAT/3-4, Third/fourth report, para. 60; see also 31 May 2017, CRC/C/SR.2205, Summary records of 2205th meeting, para. 42

³ [2019], Shadow report of the National Human Rights Committee in Qatar, pp 9-10

⁴ 27 June 2014, A/HRC/27/15, Report of the working group, para. 114

⁵ 1 March 2019, A/HRC/WG.6/33/QAT/1, National report to the UPR, para. 82

It was reported that a Prison Act No. 3 of 2016 had been adopted and prohibited the use of flogging,⁶ but we have been unable to confirm this information.

Sentence for crime

Corporal punishment is lawful as a sentence for crime under Islamic law. Article 19 of the Juveniles Act 1994 explicitly prohibits flogging of juveniles under 16: “A juvenile over 14 and under 16 years of age who commits a serious or major offence shall not be sentenced to death, imprisonment with hard labour or flogging but rather to one of the following penalties....” Persons aged 16 and 17 are subject to the penalties in the Criminal Code, which do not include corporal punishment. Article 36 of the Constitution states that “no person may be subjected to torture, or any degrading treatment”.

However, according to article 1 of the Criminal Code, the Code and other criminal laws do not apply to Hudud or Qisas offences when the victim or the alleged offender is a Muslim: “Islamic Sharia provisions concerning the following crimes are applicable if the suspect or the victim is a Muslim: 1- The crimes such as theft, adultery, defamation, drinking alcohol and apostasy. 2- The crimes of retaliation and the blood money. Otherwise, the crimes and the punishments are determined due to this law and any other law.” Punishments for these offences under Shari’a law include flogging and amputation. The Government has confirmed that the prohibition of flogging of juveniles under 16 contained in article 19 of the Juveniles Act 1994 is not absolute in that article 1 of the Criminal Code takes precedence over the provisions of any other law.⁷

The Government reported to the Committee Against Torture in 2018 that “the penalties of flogging, amputation and stoning had not been imposed in Qatar for some time”.⁸

Universal Periodic Review of Qatar’s human rights record

Qatar was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). The following recommendations were made:⁹

“To include in its national legislation the concept of torture as defined in article 1 of the Convention against Torture, and to enact legislation to abolish all types of corporal punishment and other forms of cruel, inhumane or degrading treatment (Mexico);

“To prohibit all forms of corporal punishment against children, both boys and girls (Chile);

“To consider abolishing the death penalty and corporal punishment, in particular against children (Brazil)”

The Government accepted the first two of these recommendations, stating that they have already been or are in the process of being implemented.¹⁰ However, the Government rejected the third recommendation.¹¹

Examination in the second cycle took place in 2014 (session 19). The Government drew attention to a Ministerial Decree against violence in schools, adopted in 2013.¹² No recommendations were made specifically on corporal punishment during the review.

Third cycle examination took place in 2019 (session 33). The following recommendation was made:¹³

“Explicitly prohibit corporal punishment of children in all contexts, ensure that it is properly enforced and that offenders are brought before the competent authorities (Chile)”

⁶ 7 May 2018, CAT/C/SR.1630, Summary records of 1630th meeting, para. 16

⁷ 22 March 2017, CRC/C/QAT/Q/3-4/Add.1, Reply to list of issues, para. 72

⁸ 7 May 2018, CAT/C/SR.1630, Summary records of 1630th meeting, para. 43

⁹ 15 March 2010, A/HRC/14/2, Report of the working group, paras. 85(7), 85(14) and 86(10)

¹⁰ 1 June 2010, A/HRC/14/2/Add.1, Report of the working group: Addendum, page 4; 18 June 2010, A/HRC/14/L.10, Report of the Human Rights Council on its fourteenth session, para. 214

¹¹ 15 March 2010, A/HRC/14/2, Report of the working group, para. 86(10)

¹² 9 May 2014, A/HRC/WG.6/19/L.14 Advance Unedited Version, Draft report of the working group, para. 114

¹³ 11 July 2019, A/HRC/42/15, Report of the Working Group, para. 134(225)

The Government supported the recommendation.¹⁴

Recommendations by human rights treaty bodies

Committee on the Rights of the Child

(22 June 2017, CRC/C/QAT/CO/3-4, Concluding observations on third/fourth report, paras. 4, 21 and 22)

“The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party’s attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: the definition of the child in relation to child marriage (para. 12), non-discrimination (paras. 14 and 16), nationality (para. 20), corporal punishment (para. 22), children in situations of migration (para. 34) and the administration of juvenile justice (para. 37).”

“The Committee remains deeply concerned that corporal punishment is lawful and widely used in the home, alternative care settings, day care, schools and as a penal sentence.

“With reference to 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:

- (a) Explicitly prohibit in the bill on the rights of the child corporal punishment in all settings, including at home, at schools and in the justice system, without any exception;
- (b) Ensure that the prohibition of corporal punishment is adequately monitored and enforced and that offenders are brought before the competent administrative and judicial authorities;
- (c) Promote positive, non-violent and participatory forms of child-rearing and discipline at home, strengthen training on positive discipline for teachers and other professionals working with and for children and ensure that behaviour management guidelines are part of all-service training programmes;
- (d) Establish a complaints mechanism so that children can safely and confidentially report persons who use corporal punishment;
- (e) Launch awareness-raising programmes, including campaigns, training sessions and other activities to prevent corporal punishment and to promote a positive change in the mindset on corporal punishment in all settings.”

Committee on the Rights of the Child

(14 October 2009, CRC/C/QAT/CO/2, Concluding observations on second report, paras. 39 and 40)

“While noting that measures are being taken to address corporal punishment in the context of disciplinary measures in schools and in the penal system, the Committee expresses concern that corporal punishment of children is still lawful in the family and alternative care settings.

“The Committee urges the State party:

- a) to critically review its current legislation with a view to prevent and end the use of corporal punishment of children as a method of discipline and to introduce explicit legislation prohibiting all forms of corporal punishment of children in all settings, including in the family, schools, penal system and alternative care settings;
- b) to introduce public education, awareness-raising and social mobilization campaigns on alternative non-violent forms of discipline with the involvement of children in order to change public attitudes to corporal punishment;

¹⁴ 30 August 2019, A/HRC/42/15/Add.1, Report of the Working Group: Addendum

c) to take into account while drafting legislation and designing policies the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment."

Committee on the Rights of the Child

(6 November 2001, CRC/C/15/Add.163, Concluding observations on initial report, paras. 43, 44, 45, 46, 53 and 54)

"The Committee is seriously concerned that, contrary to article 37 (a) of the Convention, under the 1994 Juvenile Act there is a possibility that persons under 18 may be subject to judicial sanctions such as flogging.

"The Committee recommends that the State party take immediate steps to ensure that the law prohibits the imposition of flogging and other forms of cruel, inhuman or degrading treatment or punishment on persons who may have committed crimes when they were under 18.

"The Committee is concerned that there is insufficient information about and awareness of the ill-treatment of children within the family and institutions.

"The Committee recommends that the State party:

a) conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address it;

b) take legislative measures to prohibit all forms of physical and mental violence against children, including corporal punishment and sexual abuse in the family and in 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....

"Noting the 1993 Ministerial Decree which bans corporal punishment in schools, the Committee remains concerned that this issue is not addressed effectively.

"The Committee recommends that the State party raise awareness of the negative impact of corporal punishment among teachers and other professionals working in schools, and take other appropriate measures to prevent and eliminate it."

Committee Against Torture

(4 June 2018, CAT/C/QAT/CO/3, Concluding observations on third report, paras. 31 and 32)

"While taking note of the explanation given by the delegation that, although article 1 of the Criminal Code still contains vague provisions authorizing flogging, stoning and other corporal punishment as criminal sanctions, such punishment is not applied in practice, the Committee is concerned that these penalties have not yet been abolished, as recommended in its previous concluding observations (see CAT/C/QAT/CO/2, para. 12). The Committee is also concerned at reports that corporal punishment of children is still permitted in the home, in alternative care and day-care settings and schools (arts. 2, 4 and 16).

"The State party should:

(a) Legally abolish corporal punishment as a sentence for crime;

(b) Enact legislation to explicitly and clearly prohibit corporal punishment of children in all settings."

Committee Against Torture

(25 January 2013, CAT/C/QAT/CO/2, Concluding observations on second report, para. 12)

"While noting that the new Act regulating penitentiaries and correctional institutions (Act No. 3 of 2009) makes no provision for the use of flogging as a disciplinary sanction unlike the previous law (Act No. 3 of 1995), the Committee remains concerned that flogging and stoning continue to be punishments under article 1 of the Criminal Code. According to information before the Committee, and which the

State party did not dispute, at least 45 people were given flogging sentences between 2009 and 2011 (art. 2).

The State party should put an end to its imposition of corporal punishment, which constitutes a breach of the Convention, and modify its legislation accordingly. The State party should ensure that criminal sanctions are in full conformity with the Convention.”

Committee Against Torture

(25 July 2006, CAT/C/QAT/CO/1, Concluding observations on initial report, para. 12)

“Certain provisions of the Criminal Code allow punishments such as flogging and stoning to be imposed as criminal sanctions by judicial and administrative authorities. These practices constitute a breach of the obligations imposed by the Convention. The Committee notes with interest that authorities are presently considering amendments to the Prison Act that would abolish flogging.

The State Party should review the legal provisions of the Criminal Code which authorize the use of such prohibited practices as criminal sanctions by judicial and administrative officers, with a view to abolishing them immediately.”

Committee on the Rights of Persons with Disabilities

(3 September 2015, CRPD/C/QAT/CO/1 Advance Unedited Version, Concluding observations on initial report, paras. 29 and 30)

“The Committee is concerned that corporal punishment remains lawful and by the lack of information on how this affects persons with disabilities in all settings, including in alternative care settings, at home, at schools and as a sentence for crime.

“The Committee recommends that the State party enact a prohibition of all corporal punishment and that it implement the recommendations of the Committee against Torture (CAT/C/QAT/CO/2 para. 12 and 19) insofar as they relate to persons with disabilities. It also requests that the State party provide information in this regard in its next periodic report.”

Prevalence/attitudinal research in the last ten years

A survey conducted in 2012 found 50% of children aged 2-14 were subjected to at least one form of psychological aggression or physical punishment, with a slightly higher prevalence among Qatari children (54%) than their non-Qatari counterparts (48%), and among older children (53% of children age 10-14) than younger (47% of those age 2-4). Boys (38%) were more likely to be subjected to physical punishment compared to girls (30%). Violent disciplining methods were found to be highest where the head of the household was educated to primary level (65%) and lowest where the head of the household had a university degree (45%). In contrast to the actual prevalence of physical punishment (35%), only 14% of respondents believed that children need to be physically punished. Forty per cent of children were found to experience only non-violent disciplining methods.

(Ministry of Development Planning and Statistics (2014), Multiple Indicator Cluster Survey (MICS) 2012, Doha, Qatar: Ministry of Development Planning and Statistics)

End Corporal Punishment acts as a catalyst for progress towards universal prohibition and elimination of corporal punishment of children. We support and analyse national progress, monitor legality and implementation worldwide, partner with organisations at all levels, and engage with human rights treaty body systems. End Corporal Punishment is hosted by the World Health Organization and supported by a multi-partner Advisory Committee.