

Ending family violence in Saudi Arabia – challenging physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women, Pre-Sessional Working Group for the 69th session, from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), June 2017

Introduction: family violence in Saudi Arabia and CEDAW's examination of the third/fourth state party report

Legal protection from domestic violence is provided for in the Law on Protection from Abuse. Legislation does not seem to provide a legal defence for the use of violent punishment in childrearing, but legal provisions against violence and assault are not interpreted as prohibiting all corporal punishment of girls and boys.

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Saudi Arabia. In particular, we hope the Committee will:

- **in its list of issues for Saudi Arabia, ask what progress is being made towards enacting a legal ban of violent punishment in childrearing, and**
- **in its concluding observations on the third/fourth state party report, recommend that Saudi Arabia ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation is enacted to prohibit domestic violence against all family members, including the violent punishment of girls and boys.**

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in Saudi Arabia
 2. Treaty body and UPR recommendations on the issue made to Saudi Arabia to date.
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1 Laws on domestic violence and corporal punishment of children in Saudi Arabia

Summary

1.1 Legal protection from domestic violence is provided for in the Law on Protection from Abuse. There is no legal ban on the use of violent punishment in childrearing – legal provisions against violence and assault are not interpreted as prohibiting all corporal punishment of girls and boys.

Detail

1.2 Provisions against violence and abuse in the Basic Law 1992 are not interpreted as prohibiting corporal punishment in childrearing. The Law on Protection from Abuse 2013 addresses domestic violence, defining domestic abuse as “all forms of exploitation, or bodily, psychological, or sexual abuse, or threat of it, committed by one person against another, including if [that person] has authority, power, or responsibility, or [if there is] a family, support, sponsorship, guardianship, or living dependency relationship between the two [individuals]”. It does not prohibit corporal punishment of children. Regulations implementing the Law are being drafted.

1.3 In 2015, the Government reported to the Committee Against Torture that a Child Protection Bill was under consideration which “is primarily intended to reaffirm the provisions of Islamic sharia and the international conventions to which the Kingdom is a party with respect to the protection of children from all forms of abuse and neglect, provision of the requisite care for such children, awareness- raising of the rights of the child and their definition, and the imposition of penalties for anyone violating those rights”.¹ The Child Protection Act was promulgated in late 2015 and provides for additional protection from abuse and neglect for the child, “to which he may be exposed in his environment (home, school, neighbourhood, public places, care home, educational centre, alternative family, government, private institution or the like), whether at the hands of a person who has guardianship of, authority over or responsibility for the child or who has some other form of relationship with him”.² However it does not prohibit all corporal punishment.

1.4 Prohibition of all violent punishment of children – which is critical in laying the legal foundations for efforts to reduce child abuse and domestic violence – requires an explicit ban in legislation. We hope the Committee will urge the Government of Saudi Arabia to enact legislation as a matter of priority to clearly prohibit all corporal punishment of girls and boys.

2 Recommendations by human right treaty monitoring bodies and during the Universal Periodic Review

2.1 The Committee on the Rights of the Child has on three occasions expressed concern at corporal punishment of children in Saudi Arabia and recommended that it be prohibited in all settings, including the home and as a sentence for crime – in its concluding observations on the state party’s initial report in 2001,³ on the second report in 2006,⁴ and on the third/fourth report in 2016.⁵

2.2 In 2002, the Committee Against Torture expressed concern at corporal punishment as a judicial sentence, noted that its imposition was a breach of the Convention, and recommended that Saudi Arabia re-examine it.⁶ Again in 2016, the Committee recommended that Saudi Arabia put an end to the practices of judicial corporal punishment and that it abolish all forms of corporal

¹ 12 February 2015, CAT/C/SAU/2, Second state party report, para. 11

² 12 February 2016, CAT/C/SAU/Q/2/Add.2, Reply to the list of issues on second report, para. 87

³ 22 February 2001, CRC/C/15/Add.148, Concluding observations on initial report, paras. 33, 34, 35 and 36

⁴ 17 March 2006, CRC/C/SAU/CO/2, Concluding observations on second report, paras. 42, 43, 44, 45, 73, 74 and 75

⁵ 25 October 2016, CRC/C/SAU/CO/3-4, Concluding observations on third/fourth report, para. 28

⁶ 12 June 2002, CAT/C/CR/28/5, Concluding observations on initial report, paras. 3, 4 and 8

punishment in legislation.⁷

2.3 During the Universal Periodic Review of Saudi Arabia in 2009, recommendations were made to prohibit all corporal punishment of children:⁸ the Government accepted these but indicated that this had already been achieved, stating: “The Kingdom accepts this recommendation in accordance with its commitments undertaken under the Convention on the Rights of the Child. Corporal punishment is prohibited in all governmental and private schools as well as in nursery schools and child care institutions. Under the regulations any form of violence against children, including violence by parents, even for disciplinary purposes, constitutes a criminal offence.”⁹ At the second cycle UPR in 2013, recommendations were made to abolish judicial corporal punishment of juvenile offenders.¹⁰ The Government rejected these, stating that corporal punishment “does not fall within the definition of torture and other degrading treatment within the meaning of article 1 of the Convention against Torture”.¹¹

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⁷ 8 June 2016, CAT/C/SAU/CO/2, Concluding observations on second report, paras. 10 and 11

⁸ 4 March 2009, A/HRC/11/23, Report of the working group, para. 87(23)

⁹ 9 June 2009, A/HRC/11/23/Add.1, Report of the working group: Addendum, paras. 38 and 39

¹⁰ 26 December 2013, A/HRC/25/3, Report of the working group, paras. 138(45), 138(127), 138(128) and 137(129)

¹¹ 28 February 2014, A/HRC/25/3/Add.1, Report of the working group: Addendum, paras. 14, 15 and 16