

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



Information for the Committee on the Elimination of Discrimination Against Women, Pre-Sessional Working Group for the 68th session, from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), January 2017

Introduction: violence against children in their homes in Kuwait and CEDAW's examination of the seventh state party report

Both article 29 of the Criminal Code and article 6 of the Rights of the Child Act 2015 seemingly provide for parents' right to discipline their children. Children can thus be lawfully subjected to family violence. The Government's international obligations call for immediate law reform explicitly prohibiting all corporal punishment of children, including in the home.

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 Kuwait. In particular, we hope the Committee will:

- **in its list of issues for Kuwait, ask the Government what effect the Rights of the Child Act 2015 has in relation to the prohibition of all corporal punishment, however light, especially in light of article 6-4 of the Act; and**
- **in its concluding observations on the fifth state party report, recommend that Kuwait take immediate action to ensure that *no* form of violence within the domestic sphere is condoned, including by parents against their children, and that legislation is enacted prohibiting all corporal punishment of children in all settings, including through the repeal of the legal defence.**

The remainder of this briefing provides the following further details:

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

1 Laws on the use of force in “correcting” children in Kuwait

1.1 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 reporting to the Committee on the Rights of the Child, the Government stated that Law No. 9/2010 on the

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

protection of children from violence and exploitation protects children from all types of abuse.² We have yet to see the text of this law but indications are that it does not explicitly prohibit all corporal punishment in childrearing.

1.2 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.³ 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).⁴ The Rights of the Child 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”.⁵ We are looking to obtain the full text in order to assess its effect on the legality of corporal punishment of children, especially article 6 of the Act.

1.3 **We hope the Committee will raise the issue of the violent punishment of children in its review of Kuwait, and remind the state party of its international obligations. We further hope that the Committee will recommend that the Government immediately enact legislation explicitly prohibiting corporal punishment of children in all settings.**

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

2.1 **CRC:** Kuwait’s initial report to the Committee on the Rights of the Child was examined in 1998.

The Committee expressed concern about corporal punishment and recommended law reform to prohibit it in the family, schools, other institutions and in society generally.⁶ These concerns and recommendations were reiterated following examination of the second report in 2013.⁷

2.2 **UPR:** During the Universal Periodic Review of Kuwait in 2010, the Government accepted the recommendation to “take appropriate measures and introduce legislation which would prohibit corporal punishment of children”.⁸ In the second cycle review in 2015, a number of recommendations were made to prohibit corporal punishment of children in all settings.⁹ The Government accepted the recommendations but in doing so appeared to defend some level of violent punishment of children, stating that “the authority of the guardian in the simple discipline in accordance with article 6 of the Child Rights Act” (unofficial translation).¹⁰

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

³ 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

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

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

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

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

⁸ 16 June 2010, A/HRC/15/15, Report of the Working Group, para. 79

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

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