

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



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

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## Introduction: violence against children in their homes in Oman and CEDAW's examination of the second/third state party report

Article 38 of the Penal Code allows for violent punishment of girls and boys, “within the limits of public customs”. Although children are protected from abuse, this protection does not extend to all corporal punishment, however light. In 2015, the Government clearly committed to prohibiting all corporal punishment of children during the Universal Periodic Review – Oman must now act on this commitment and its international obligations and enact legislation explicitly prohibiting the violent 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 Oman. In particular, we hope the Committee will:**

- **in its list of issues for Oman, ask the Government what progress is being made towards the prohibition of all violent punishment of children, and**
- **in its concluding observations on the second/third state party report, recommend that Oman 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.**

The remainder of this briefing provides the following further details:

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

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

1.1 Corporal punishment is lawful in the home. Article 38 of the Penal Code 1974 states: “The following shall not be deemed a crime: ... (2) Types of punishment imposed on children by their parents or teachers, within the limit of public customs....” Provisions against violence and abuse in the Basic Law 1996, and the Code of Criminal Procedure 1999 are not interpreted as prohibiting corporal punishment in childrearing. The Child Law 2014<sup>1</sup> confirms children’s right to protection from violence, exploitation, abuse and inhumane treatment (art. 7) but it does not prohibit all corporal punishment.

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<sup>1</sup> Sultaan Decree No. 2014/22

- 1.2 In 2015, the Government reported to the Committee on the Rights of the Child that “protection of the child from corporal punishment is evident from the enactment of a considerable amount of penal legislation banning all forms of physical and mental violence against children, including corporal punishment, deliberate abuse and harm, mistreatment, neglect or exploitation to which children may be exposed in the family or foster family environment or in other types of care in public and private institutions, such as prison and school”.<sup>2</sup> But as noted above, legislation not only lacks comprehensive prohibition of corporal punishment but specifically allows for punishment of children “within the limit of public customs”.
- 1.3 During the Universal Periodic Review of Oman in 2015, a recommendation was made to explicitly prohibit corporal punishment of children in all settings including the home.<sup>3</sup> The Government indicated its commitment to prohibition by clearly accepting this recommendation;<sup>4</sup> at the same time it asserted that the recommendations it had accepted are “in conformity with the Constitution, the teachings of the Islamic Sharia and the Omani society and culture”.<sup>5</sup>
- 1.4 **We hope the Committee will raise the issue of corporal punishment of children in its review of Oman, and recommend that the Government immediately enact legislation explicitly prohibiting corporal punishment of children in all settings and repeal the legal defence contained in the Penal Code.**

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

- 2.1 **CRC:** The Committee on the Rights of the Child first raised the issue of corporal punishment of children in Oman in its concluding observations on the initial state party report in 2001, recommending that it be prohibited in the family and other settings.<sup>6</sup> In 2006, the Committee reiterated its recommendations.<sup>7</sup> Most recently in 2016, the Committee recommended that the Child Act 2014 be amended to include explicit prohibition of corporal punishment of children in all settings, and that the legal defence contained in the Penal Code be repealed.<sup>8</sup>
- 2.2 **UPR:** During the second cycle examination in 2015, the Government accepted a recommendation to explicitly prohibit all corporal punishment of children in all settings including the home, adding that the recommendation was “in conformity with the Constitution, the teachings of the Islamic Sharia and the Omani society and culture”.<sup>9</sup>

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<sup>2</sup> 28 January 2015, CRC/C/OMN/3-4, Third/fourth state party report, para. 76

<sup>3</sup> 6 January 2016, A/HRC/31/11, Report of the working group, para. 129(142)

<sup>4</sup> 8 March 2016, A/HRC/31/11/Add.1, Report of the working group

<sup>5</sup> 23 March 2016, A/HRC/31/2 Advance unedited version, Draft report of the Human Rights Council on its 31st session, para. 752

<sup>6</sup> 6 November 2001, CRC/C/15/Add.161, Concluding observations on initial report, paras. 35 and 36, 47 and 48

<sup>7</sup> 29 September 2006, CRC/C/OMN/CO/2, Concluding observations on second report, paras 33, 34 and 35

<sup>8</sup> 21 January 2016, CRC/C/OMN/CO/3-4 Advance Unedited Version, Concluding observations on third/fourth report, paras. 6, 35 and 36

<sup>9</sup> 23 March 2016, A/HRC/31/2 Advance unedited version, Draft report of the Human Rights Council on its 31st session, para. 752