

Ending family violence in United Arab Emirates – confronting physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), September 2015

Introduction: family violence in the United Arab Emirates and CEDAW's examination of the second/third state party report

At the Universal Periodic Review of the United Arab Emirates (UAE) in 2013, recommendations were made concerning law reform to address domestic violence and specifically to prohibit physical punishment of women by their husbands and to prohibit physical punishment of children in all settings. The Government “took note” of these recommendations. Yet the right of all persons to live their lives free from violence is longstanding and well established in international law: there is no uncertainty and no question that Governments are under an obligation to protect their citizens in law and practice.

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys – as well as of physical punishment of women by their husbands – in its examination of the UAE. In particular, we hope the Committee will:

- **in its concluding observations on the second/third state party report, recommend that the UAE ensure that *no* form of violence against women and girls within the domestic sphere or any other setting is condoned, including by parents against their children, and that legislation is enacted to prohibit domestic violence against all family members, including clear prohibition of all physical punishment of children.**

The remainder of this briefing provides the following further details:

1. The current law relating to family violence and corporal punishment of children in the UAE and immediate opportunities for reform
 2. Treaty body and UPR recommendations on the issue made to the UAE to date.
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1 Laws on domestic violence and corporal punishment of children in the United Arab Emirates

Summary

1.1 In the UAE, legal reform in recent years has strengthened prevention of and protection for children from violence, but violence inflicted in the guise of discipline in the home – and punishment in the penal system – remains lawful.

Detail

1.2 The Penal Code 1987 states in article 53: “There is no crime if the act takes place in good faith in the use of a right provided for in the law and within the limits set for such right. The following shall be considered as a use of right: (1) Chastisement by a husband to his wife and chastisement of the

parents, or whoever acts in their stead, to the minor children within the limits prescribed by Shari'a or by law...." Article 59 states: "Exceeding the legitimate limits in good faith shall be considered an extenuating excuse and a judgment of acquittal may be rendered if deemed appropriate by the judge." A 2010 judgment by the Federal Supreme Court reportedly upheld a husband's right to "chastise" his wife and children provided that beating and other forms of punishment leave no physical marks.¹ A new Child Rights Law was passed in 2014 which reportedly protects children from all forms of violence.² We have yet to see the full text but there are no indications that it prohibits all corporal punishment in the home.

- 1.3 In the criminal justice system, the Penal Code 1987, the Criminal Procedure Code 1992, the Law of Evidence 1992, and the Juvenile Delinquents and Vagrants Act 1976 apply to non-Islamic offences and to most *ta'zir* (discretionary punishment) offences, but not to *hadd* (mandatory punishments), *qisas* (punished by retaliation) and *diyah* offences (requiring compensation of victims), which are governed solely by Shari'a law. The Sharia Courts Act 1996 provides for Shari'a courts to try cases concerning crimes allegedly committed by juveniles, and states that Shari'a punishments shall apply (arts. 1 and 2). Amnesty International and Human Rights Watch have documented sentencing to judicial corporal punishment – lashes, flogging and stoning.³
- 1.4 In 2012, the United Arab Emirates acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, but in doing so declared that "the lawful sanctions applicable under national law, or pain or suffering arising from or associated with or incidental to these lawful sanctions, do not fall under the concept of 'torture' as defined in article 1 of this Convention or under the concept of cruel, inhuman or degrading treatment or punishment mentioned in this Convention".

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

- 2.1 UAE received recommendations to prohibit corporal punishment of children from the Committee on the Rights of the Child in 2002.⁴ Recommendations were also made during the UPRs in 2008 and 2013.⁵ The recommendations received a mixed response from the Government, rejecting the recommendation to abolish judicial corporal punishment and "taking note" of recommendations to prohibit corporal punishment in other settings.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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¹ Joint submission to the UPR, 2013, from Human Rights Watch, Network for Human Rights Information, Gulf Centre for Human Rights, and Index on Censorship; Submission to the UPR, 2013, from Amnesty International

² http://www.uaeinteract.com/docs/FNC_approves_draft_law_on_child_rights/60166.htm, accessed 16 September 2014

³ *Amnesty International Report 2007: The State of the World's Human Rights*, London: Amnesty International Publications; Human Rights Watch Submission to the CEDAW Committee of the United Arab Emirates' Periodic Report 62nd Session, February 2015

⁴ 13 June 2002, CRC/C/15/Add.183, Concluding observations on initial report, paras. 32, 33, 34 and 35

⁵ 12 January 2009, A/HRC/10/75, Report of the working group, para. 62; 21 March 2013, A/HRC/23/13, Report of the working group, paras. 128(92), 128(127) and 128(133)