

**BRIEFING ON KUWAIT FOR THE COMMITTEE ON THE RIGHTS OF THE CHILD, PRESESSIONAL WORKING GROUP – February 2013**

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**This briefing describes the legality of corporal punishment of children in Kuwait. In light of the Committee’s General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, the Committee’s previous recommendation on the issue, the Government’s acceptance of the recommendation to prohibit made during its UPR in 2010, and the importance of eradicating this form of violence given by the UN Secretary General’s Study on Violence against Children, we hope the Committee will:**

* **in its List of Issues for Kuwait, raise the issue of corporal punishment of children, in particular asking what measures have been taken towards explicitly prohibiting corporal punishment in all settings, including the home, schools, penal institutions and all forms of alternative care?**
* **in its concluding observations on the second report of Kuwait, recommend that legislation is enacted to prohibit corporal punishment in all settings, including the home, as a matter of urgency, and that prohibition is enforced through appropriate public education and professional training on positive, participatory and non-violent forms of education and childrearing.**

**1 Kuwait’s report to the Committee on the Rights of the Child**

1.1 The second state party report to the Committee on the Rights of the Child (CRC/C/KWT/2) describes measures to address child abuse but it makes no reference to violence that may lawfully be inflicted on children in the guise of “discipline”.

**2 The legality of corporal punishment of children in Kuwait**

2.1 *Summary:* In Kuwait, corporal punishment of children is lawful in the home and in alternative care settings; it is possibly prohibited in schools and the penal system.

2.2 *Home (lawful):* Under examination by the Human Rights Committee in 2011, the Government indicated that corporal punishment is unlawful under the Criminal Code.[[1]](#footnote-1) However, article 29 of the Criminal Code (No. 16/1960) provides for the right of parents to discipline their children, and provisions against violence and abuse in the Criminal Code, the Juveniles Act (No. 8/1983), 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.

2.3 *Schools (?unlawful):* During examination by the Committee on the Rights of the Child in 1998, the Government stated that a statute dating back to the 1960s prohibited corporal punishment by teachers or school principals.[[2]](#footnote-2) In 2011, the Government informed the Human Rights Committee that corporal punishment is prohibited by statute.[[3]](#footnote-3) This information has not been verified: the Government has not provided legal references and we have been unable to examine the full texts of the Compulsory Education Act (1965) and the General Education Act (1987).

2.4  *Penal system – sentence for crime (?unlawful):* There is no provision for judicial corporal punishment in the Juveniles Act, the Criminal Code or the Criminal Procedure Code (1960). In 2001 draft legislation was under discussion which would have amended the Criminal Code to comply with Islamic law, including penalties of amputation and flogging, but this appears not to have been enacted (information unconfirmed).

2.5 *Penal system – disciplinary measure in penal institutions (?unlawful):* Corporal punishment is unlawful under the Prison Regulation Act (No. 26/1962), though we have yet to establish whether it is explicitly prohibited. There is no explicit prohibition in the Juveniles Act.

2.6 *Alternative care settings (lawful):* There is no explicit prohibition in law – including in the Juveniles Act, the Family Fostering Act (No. 82/1977) and the Children’s Nurseries Act (No. 111/2000) – and corporal punishment is presumably lawful under article 29 of the Criminal Code (see above).

**3 Recommendations by human rights treaty bodies and during the UPR**

3.1 *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.[[4]](#footnote-4)

3.2 *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”.[[5]](#footnote-5)

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*

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1. 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Written replies to list of issues, para. 99 [↑](#footnote-ref-1)
2. 2 October 1998, CRC/C/SR.489, Summary record, para. 8 [↑](#footnote-ref-2)
3. 17 August 2011, CCPR/C/KWT/Q/2/Add.1, Written replies to list of issues, para. 101 [↑](#footnote-ref-3)
4. 26 October 1998, CRC/C/15/Add.96, Concluding observations on initial report, para. 21 [↑](#footnote-ref-4)
5. 16 June 2010, A/HRC/15/15, Report of the Working Group, para. 79 [↑](#footnote-ref-5)