



Global Initiative to
**End All Corporal Punishment
of Children**

BRIEFING ON IRAQ FOR THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, PRESESSIONAL WORKING GROUP – Jul 2013

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The human rights obligation to prohibit corporal punishment – a key strategy in eliminating all forms of violence

The legality and practice of corporal punishment of girls breaches their fundamental rights to respect for their human dignity and physical integrity, to equality under the law and to protection from all forms of violence – rights guaranteed in the Convention on the Elimination of All Forms of Discrimination Against Women and other international human rights instruments. There are strong links between corporal punishment of children – girls and boys – and all other forms of violence, including gender-based violence. As the Committee on the Rights of the Child emphasised in its General Comment No. 8 (2006),¹ addressing corporal punishment is “a key strategy for reducing and preventing all form of violence in societies”.

This briefing describes the legality of corporal punishment of children in Iraq. In light of General Recommendation No. 19 on Violence against women (1992), the links between corporal punishment of children and all other forms of violence including gender-based violence, the recommendations of treaty monitoring bodies, we hope the Committee on the Elimination of Discrimination Against Women will:

- **raise the issue of corporal punishment of girls in its List of Issues for Iraq, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Iraq, in the concluding observations on the fourth/fifth state party report, that corporal punishment is explicitly prohibited in all settings, including the home, as a matter of priority.**

¹ General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment” is available at www2.ohchr.org/english/bodies/crc/comments.htm.

1 The state party's report to CEDAW

1.1 The fourth to sixth state report of Iraq to CEDAW (29 November 2011, CEDAW/C/IRQ/4-6) includes information on violence against women but appears to make no reference to corporal punishment – violence inflicted on girls and boys in the guise of discipline in childrearing and education.²

2 The legality corporal punishment of children in Iraq

2.1 *Summary*: In Iraq, corporal punishment is unlawful as a sentence for crime and in some penal institutions; it is lawful in the home, schools, some penal institutions and alternative care settings.

2.2 *Home (lawful)*: Article 41(1) of the Penal Code 1969 states that an act committed while exercising a “legal right” is not a crime, including “the disciplining by parents and teachers of children under their authority within certain limits prescribed by law or by custom”. The Constitution 2005 states that “all forms of violence and abuse in the family, school and society shall be prohibited” (article 29(4)) and that “all forms of psychological and physical torture and inhumane treatment are prohibited” (article 39(1)) but neither these nor the provisions against violence and abuse in the Juveniles Welfare Law 1983 are interpreted as prohibiting all corporal punishment in childrearing. In 2012, a domestic violence law was being drafted: we do not know if prohibition of corporal punishment has been proposed in this context.

2.3 *Schools (lawful)*: Corporal punishment is lawful under the confirmation of teachers’ “legal right” to discipline children in article 41 of the Penal Code.

2.4 *Penal system – sentence for crime (unlawful)*: There is no provision for corporal punishment in criminal law.

2.5 *Penal system – disciplinary measure in penal institutions (partial prohibition)*: Corporal punishment is explicitly prohibited in detention and prison facilities by CPA Memorandum No. 2 Management of Detention and Prison Facilities 2003, section 11(8). There appears to be no explicit prohibition in other institutions accommodating children in conflict with the law, including the Surveillance Centre, the Rehabilitation School for Preadolescents, the Rehabilitation Centre for Adolescents, and the Juvenile Rehabilitation Centre. The Juveniles Welfare Law 1983 is silent on the issue.

2.6 *Alternative care settings (lawful)*: Corporal punishment is lawful under article 41(1) of the Penal Code (see under “Home”).

3 Recommendations by human right treaty monitoring bodies and during the UPR

3.1 *CRC*: In 1998, the Committee on the Rights of the Child expressed concern at corporal punishment of children in Iraq and recommended it be prohibited “at all levels of society”.³

3.2 *UPR*: Iraq was examined in the first cycle of the Universal Periodic Review in 2010 (session 7). No recommendation was made specifically on corporal punishment, but the

² At the time of briefing, the report is available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws57.htm> in Arabic only

³ 26 October 1998, CRC/C/15/Add.94, Concluding observations on initial report, para. 20

Government accepted recommendations to harmonise national legislation with international human rights standards.⁴

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⁴ 15 March 2010, A/HRC/14/14, Report of the working group, paras. 81(5), 81(8), 81(9) and 81(21)