



Global Initiative to  
End All Corporal Punishment  
of Children

**BRIEFING ON SERBIA FOR THE COMMITTEE ON THE ELIMINATION OF  
DISCRIMINATION AGAINST WOMEN  
PRESESSIONAL WORKING GROUP – March 2012**

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**The human rights obligation to prohibit corporal punishment of girls and boys**

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),<sup>1</sup> 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 Serbia. 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, and Serbia’s acceptance of the recommendation to prohibit during its UPR in 2008, 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 Serbia, asking what progress has been made towards prohibiting and eliminating corporal punishment in all settings, including the home, and**
- **recommend to Serbia, in the concluding observations on the second/third state party report, that the state party expedite the passage of draft legislation to explicitly prohibit all corporal punishment as a matter of priority.**

<sup>1</sup> 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](http://www2.ohchr.org/english/bodies/crc/comments.htm).

## **The report of Serbia to CEDAW**

The second/third report of Serbia to CEDAW (28 January 2012, CEDAW/C/SRB/2-3) provides detailed information on legislative and other measures to address violence against women and states that all family members have an equal right to protection from domestic violence (para. 294). However, the report does not mention that the law fails to prohibit all corporal punishment of children by parents and carers, nor does it describe efforts currently under way to enact legislation which would achieve prohibition.

### **Corporal punishment of children in Serbia**

In Serbia, corporal punishment is lawful in the home and in some care settings. It is unlawful in schools, the penal system and in care settings which are part of the education system.

With regard to the home, provisions against violence and abuse in the Criminal Code (2005), the Misdemeanours Act (2007) and the Constitution (2006) are not interpreted as prohibiting all corporal punishment in childrearing. The Serbian Family Law (2005) states (article 72(2)): "Parents may not subject the child to humiliating actions and punishments which insult the child's human dignity and have the duty to protect the child from such actions taken by other persons." But there is no explicit prohibition of all corporal punishment.

The Government stated its commitment to prohibition in 2007. In 2008, the Ministry of Social Policy and the Council for Child Rights adopted a National Strategy for the Prevention and Protection of Children Against Violence which included the aim of abolishing corporal punishment of children; plans were made for drafting amendments to the Family Act, and Minister for Education Mr Zarko Obradovic signed the Council of Europe petition against all corporal punishment of children. In accepting the recommendations at the Universal Periodic Review in the same year (see below), the Government again stated its intention to prohibit corporal punishment of children; in 2011 a Working Party developed a Draft Law on the Rights of the Child which includes provisions to prohibit all corporal punishment; as at January 2012 this is under discussion.

Corporal punishment was first explicitly prohibited in schools in article 67 of the Law on Public Schools (Yugoslavia, 1929). It is now unlawful under the Law on Secondary Schools (1992), the Law on Elementary Schools (1992) and the Law on the Bases of the System of Education and Upbringing (2003, 2009).

In the penal system, corporal punishment is unlawful as a sentence for crime under the Criminal Code and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (2005). It is unlawful as a disciplinary measure in penal institutions under the Law on Enforcement of Penal Sanctions and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles.

Corporal punishment is prohibited in all day care which forms part of the education system under education law (see above), including nurseries, kindergartens, preschools, after school care, workshops and additional education activities, but it is lawful in other forms of alternative care.

Numerous research studies have revealed the nature and prevalence of corporal punishment of children in Serbia, in the home and other settings. For example, a major UNICEF analysis in 2010 found that 75% of 2-14 year olds experienced violent discipline (physical punishment and/or psychological aggression) in 2005-2006 in Serbia: 8% experienced severe physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an implement); 64% experienced psychological aggression (being shouted at, yelled at, screamed at or insulted).<sup>2</sup> In a 2006 survey of nearly 27,000 9-15 year olds, 32% said they had experienced violence from a teacher in the past three

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<sup>2</sup> UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

months; 17% reported that a teacher had hit them or pulled their hair or ears at least once, 24% had experienced verbal aggression from a teacher.<sup>3</sup> In a study of children in six state residential care institutions, 26% reported experiencing physical violence at least once from a member of staff; 17% of adults working in these institutions reported that some of their colleagues were violent towards the children.<sup>4</sup>

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

In its concluding observations on the state party's initial report in 2008, the Committee on the Rights of the Child expressed concern at the legality of corporal punishment in the family and at its widespread use, and recommended that explicit prohibition in law together with awareness raising campaigns and education programmes (CRC/C/SRB/CO/1, paras. 46 and 47). In 2009, the Committee Against Torture recommended explicit prohibition of corporal punishment in all settings including the family (CAT/C/SRB/CO/1, Concluding observations on initial report, para. 20).

Serbia was examined in the first cycle of the Universal Periodic Review in 2008. The Government accepted the recommendations to prohibit all corporal punishment of children (A/HRC/10/78/Add.1, Report of the Working Group: Addendum).

*Briefing prepared by the Global Initiative to End All Corporal Punishment of Children*  
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January 2012

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<sup>3</sup> Plut, D. & Popadic, D. (2006), *School Without Violence: towards the safe and enabling environment for children*, Belgrade: UNICEF and Institute of Psychology at the Faculty of Philosophy in Belgrade

<sup>4</sup> Plut, D. & Popadić, D. (2007), *U lavirintu nasilja – istraživanje nasilja u ustanovama za decu bez roditeljskog staranja u Srbiji*, Beograd: Save the Children UK & Institut za psihologiju, reported in Srna, J. & Stevanović, I. (2011), "Serbia: Moving Towards the Abolition of Physical Punishment of Children", in Durrant, J. E. & Smith, A. B. (eds) (2011), *Global Pathways to Abolishing Physical Punishment: Realizing Children's Rights*, New York: Routledge, pp.222-233