



**PROHIBITION
OF CORPORAL PUNISHMENT**
- needed and challenging,
but **possible!**



Save the Children



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Punishment as a mechanism of “correction” of unaccepted, unadjusted and undesired behaviours is present and socially acceptable in majority of social systems (e.g. schools, judiciary); however, the mechanism of corporal punishment that is still perceived by significant number of individuals¹ and societies as an acceptable method of “correction” of child’s behaviour has been subject to discussions that resulted with its explicit prohibition in many countries around the world over the past few decades.



I. What is corporal punishment of children²

Corporal punishment is identified as use of physical force with the intention of inflicting pain to a child, but not an injury, for the purpose of correcting or controlling the child’s behaviour³. Our society also uses terms such as disciplining, child-rearing and strict disciplining. The key element in the definition of corporal punishment that clearly indicates that corporal punishment is unacceptable upbringing method is the intent to hurt and the method used, i.e. physical force which is a tool for achieving the objective i.e. correction or control of child’s behaviour. Physical force implies hitting children (slapping, pounding, hitting them on the body), with hand, foot or some object – whip, rod, belt, shoes, wooden spoon (ladle), and similar, but also shaking and pushing children, scratching, pinching, biting, pulling hair or ears, forcing children to maintain in uncomfortable and degrading positions (e.g. kneeling), burning them and forcing them to swallow. When defining corporal punishment, it is important to make distinction between the corporal punishment and physical abuse and physical violence. Namely, physical abuse can manifest in the same manner as corporal punishment, but key difference is related to severity of injuries that result from use of physical force for both forms of violence⁴. With corporal punishment (e.g. a slap) injuries are not long-term or “severe”, whereas with physical abuse the risk of severe injuries is significantly higher. It is still important to highlight that both corporal punishment and physical abuse constitute PHYSICAL VIOLENCE, and as such constitute violation of dignity, integrity and rights of the child.

¹ This text talks about all adults who participate in the process of upbringing and education of a child regardless of their connection to the child (e.g. parent, guardian, caretaker, foster parent, teacher..)

² In General recommendation number 8 from 2006, the Committee for Rights of the Child UN defines corporal punishment as any other punishment in which physical force is applied with intent to cause some level of pain or discomfort, no matter how mild.

³ Straus, 2000. per Velki, T., Bošnjak, M. (2012) Povezanost roditeljskih odgojnih postupaka s tjelesnim kažnjavanjem djece. *Život i škola: Časopis za teoriju i praksu odgoja i obrazovanja*, 2/28, 63-82. [Connection of parental educational actions with corporal punishment of children. Life and school: Journal for theory and practice of upbringing and education. Croatian language]

⁴ Gershoff, E. T. (2002). Corporal punishment, physical abuse, and the burden of proof: Reply to Baumrind, Larzelere, and Cowan (2002), Holden (2002), and Parke (2002). *Psychological Bulletin*, 128(4), 602–611

2. Who has prohibited corporal punishment and why?

The twentieth century was a century of research and thinking about children and their rights. The overall development of the society, with changes regarding perception of human rights and new knowledge about children, resulted in adoption of the Convention on the Rights of the Child, the umbrella document for protection of children's rights. The Convention draws on the International Bill of Human Rights that is comprised of Universal Declaration on Human rights (adopted in 1948), International Pact on Civil and Political Rights (1966) with their two Optional Protocols, and International Pact on Economic, Social and Cultural Rights (1966). Article 19 of the convention explicitly requires signatory states to protect children from all "forms of physical and mental violence" while they are under the care of adults; parents and other guardians. The Convention brought positive changes to legislative measures of many countries, and the first change of the state legislation in the world that explicitly prohibited corporal punishment and other forms of degradation of children was made in Sweden in 1979, as a supplement to the Law on Parenting and Guardianship. From world-wide perspective, it is still necessary to invest significant efforts into eradication of corporal punishment of children in the families, schools, correctional and other institutions as a method of child-rearing and manner of treating children. So, for example, there are still 92 countries around the world that have still not launched initiatives to reform the legislation so it prohibits punishment of children in all environments, and in 69 countries corporal punishment in schools has still not been completely prohibited⁵.

Procedures to prohibit/reform laws are underway in 55 countries, but it is estimated that only 10% of total population of children are legally protected from corporal punishment.

By October 2016, a total of 51 countries in the world introduced laws prohibiting corporal punishment of children in all environments, including the family. Majority of these countries are in Europe (19 are outside the European continent), and in our immediate vicinity, Croatia

(1999), Albania (2010), Former Yugoslav Republic of Macedonia (2013) and Slovenia (2016) are among the countries that prohibited corporal punishment in all forms and environments. As a signatory of the Convention as of 1993, Bosnia and Herzegovina made a significant step forward in terms of protection of children from violence by completely prohibiting corporal punishment of children in schools, correctional institutions, and by prohibiting imposition of corporal punishment as a penalty measure for the perpetrated criminal offences. However, when it comes to prohibition of corporal punishment in the family, alternative accommodation and day-care centres, additional harmonisation and amendments to the legislation are required to explicitly prohibit use of corporal punishment for the purpose of child-rearing in all laws and at all levels.

Committee for the Rights of the Child that supervises implementation of the Convention on the Rights of the Child emphasises in the Conclusions of Combined second, third and fourth Periodical report for Bosnia and Herzegovina from 2012 the concern for prevalence of corporal punishment in the families, as well as for a high degree of acceptance of violence for the purpose of disciplining children⁶. Bosnia and Herzegovina stated, in response to additional questions⁷ of the Committee in 2012, that revision of legislation at the level of FBiH will take into consideration the prohibition of corporal punishment in all environments, including the family. BiH Action Plan for Children 2015-2018 anticipates improvement of legislative framework for the purpose of prohibiting corporal punishment in all environments at all administrative levels, as well launching an initiative for adoption of comprehensive law on the rights of children at state level, which would fully in line with stipulations of the Convention and provide guidelines for their application in the entire territory of Bosnia and Herzegovina.

⁵ <http://endcorporalpunishment.org/progress/countdown.html> (accessed on: 17.11.2016.)

⁶ <http://www.mhrr.gov.ba/PDF/djeca/Bosanska%20v%20FINAL%20prevod%20ISPRAVNE%20VERZIJE1.pdf> (accessed on: 17.11.2016.)

⁷ http://www.mhrr.gov.ba/PDF/djeca/KONACNA%20zadnja_va_rijanta_odgovora_na%20dodatna%20pitanja_crc1.pdf (accessed on: 17.11.2016.)

3. Why is corporal punishment wrong and why it should be prohibited?

Reasons why corporal punishment should be prohibited as a mechanism for regulation of interaction between an adult and a child, for the purpose of child-rearing, disciplining, correction, control, stopping or changing behaviour in the family, school, all types of extracurricular activities (sports, art, religious classes, etc.), institutions for children without parental care, correctional/penal institutions, are discussed in more detail below:

1. The nature of the act of corporal punishment as a method for correcting or controlling child's behaviour, i.e. physical force – VIOLENCE.

Violence does not change its violent form or negative effect it has, regardless of what we call it and regardless of who is the recipient and who the victim. The violence as defined by the World Health Organisation (WHO)⁸ includes “intentional use of physical force and power” and in addition to applied violence, it also views threats and intimidation as violence. Corporal punishment or disciplining are actually euphemisms, namely the terms used to mitigate and culturally rationalise and explain the purpose and significance of the violent act that from the perspective of power which we as adults have over children we view as “allowed” method of child-rearing⁹. **This euphemism, attempting to explain interaction between adults and children, in the case of interaction between adults would be described as violence and criminal offense, but due to the perspective of power adults have over children, we do not call it its right name.**

2. Inefficiency of corporal punishment as means to accomplish change in child's behaviour.

Corporal punishment provides external and immediately visible result in that it stops certain behaviour, but under the façade of child-rearing based on corporal punishment, pathological processes and unreal behavioural changes are created¹⁰ Corporal punishment is a PUNISHMENT that prevents current behaviour, but does not change the behaviour nor it teaches a child some new form of behaviour. Corporal punishment just tells a child that it did something wrong, but does not say what the child should do to change that behaviour. Corporal punishment does not teach you new behaviour, it teaches fear. The argument stating that it is “efficient” and that undesired behaviour does not happen after corporal punishment, is very questionable. Child is powerlessness in front of an adult and ready to “cooperate”, namely, to adjust in order to get affection of the adult¹¹, which leaves an impression that the child understood and accepted the message of the corporal punishment. The key is to understand that such “efficiency” violates the child's integrity and that the child loses contact with itself. It takes on an adaptation and becomes more of what the environment wants him or her to be, and not who he or she truly is. In that way, the child fails to fully develop as an individual, with a sense of his own boundaries and the boundaries of other, *me*, character and identity, all of which comprise child's integrity.¹²

⁸ <http://www.who.int/violenceprevention/approach/definition/en/> (accessed on: 17.11.2016.)

⁹ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa. [Your competent child. Croatian language]

¹⁰ *ibid*

¹¹ *ibid*

¹² *ibid*.

3. The consequences that a violent act of corporal punishment leaves are multiple, and we can talk about the consequences for the child, for adult-child interaction, and the adult alone.

A. Consequences for the child

Corporal punishment leaves short-term and long-term consequences¹³ and has harmful consequences/effects for both childhood and adult stage of life. The first consequence of corporal punishment is physical/bodily injuries of serious or less serious nature. **Corporal punishment disrupts the process of learning and optimal cognitive, sensory and emotional development of a child.**¹⁴ Emotionally, child experiences fear, pain, humiliation, distrust and strong sense of guilt, which is usually suppressed and leaves permanent consequences on the child's self-consciousness and self-respect.¹⁵ Corporal punishment increases aggression, delinquent and anti-social behaviour both in childhood and adult age. As adults, persons who experienced corporal punishment have problems with socialisation and they are more violent in relationships with their spouses and children, and the likelihood that corporal punishment will escalate into abuse is quite high.¹⁶

On a cognitive level, logical reasoning is not encouraged for understanding relations between behaviour and its consequences. **The child learns by imitating the adults that violence is a reasonable way to solve problem situations whenever he/she concludes that the other side is "guilty" or when the other side is weaker.**¹⁷ Severe corporal punishment has been linked to poor success in school, school absence, and drop out.

At a personal level, the child will have a low level of self-consciousness and lack of feeling for boundaries of others, which can become a big problem in all future interactions with other persons.¹⁸ The child feels lonely, sad and abandoned due to unsafe relationship it has with the adult, which also diminishes his feeling of trust into his environment as safe. The prevalence rate of self harm has been shown to increase with the frequency of corporal punishment, and running away from home is one of the ways that children deal with corporal punishment¹⁹.

B. Consequence for adult-child interaction

The decisive element for health and development of children and adults is quality of family interaction²⁰. In childhood, we learn how to establish relationships and responsibility for the quality of those relationships rests with the adults. Quality of relationships between parents and children, namely, communication and emotional connection is very weak in cases when corporal punishment is used.²¹ **Corporal punishment violates child's integrity and dignity and it sends a message that bodily and spiritual integrity of another person are not worth the preservation and respect.**²² Due to imbalance

¹³ Zolotor, A. J., & Puzia, M. E. (2010.) Bans against corporal punishment: A systematic review of the laws, changes in attitudes and behaviours. *Child Abuse Review*, 19 (4), 229-247.

¹⁴ Berlin et al., 2009; Straus and Paschall, 2009, per Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579)

¹⁵ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa [Your competent child. Croatian language]

¹⁶ Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579.

¹⁷ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa [Your competent child. Croatian language];Porteus, K. et al. (2001), *Alternatives to corporal punishment: Growing discipline and respect in our classrooms*, Witwatersrand University and South Africa Human Rights Commission, Heinemann Publishers, per Global Initiative to End All Corporal Punishment of Children (2010). *Ending corporal punishment and other cruel and degrading punishment of children through law reform and social change*. London.

¹⁸ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa. [Your competent child. Croatian language]

¹⁹ Meltzer, H. et al. (2001), *Children and adolescents who try to harm, hurt or kill themselves*, London: HMSO, per Global Initiative to End All Corporal Punishment of Children (2010). *Ending corporal punishment and other cruel and degrading punishment of children through law reform and social change*. London.

²⁰ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa. [Your competent child. Croatian language]

²¹ Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579.

²² Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa. [Your competent child. Croatian language]

between the power of an adult and power of a child, and due to their desire to be accepted and to belong, children are willing to neglect their needs and cooperate even in a violent relationships so they would be accepted by their parents (similar to the well-known *Stockholm syndrome* of cooperativeness, i.e. existence of emotional connection and identification of the victim with the abuser). That is the how children learn that violence is acceptable pattern of normal interaction in close interactions that are based on love.²³ The research shows that there is a connection between corporal punishment in childhood and tendency to relate sex with violence in adult age.²⁴

C. Consequences for the adult and other family members

Corporal punishment, as one of the mechanisms of traditional approach to child-rearing, is not only directly harmful to children, but also to parents, because violent interaction between the parent and the child prevents both personal growth and development of the parent and hinders communication between spouses, and other family members.²⁵ Adults do not feel well either about what they did, so they often transfer responsibility for their actions to the child. In addition, corporal punishment is the main risk factor for physical abuse, since corporal punishment and physical abuse are two dots on the same continuum.²⁶ Punishment has a character of addiction²⁷; it can be successful mechanism to temporarily stop the child's undesired behaviour, but the likelihood that punishment will be repeated in similar situations also increases. Due to its ineffectiveness in *changing* behaviour that the adults expect to get, it leads to more intensive corporal punishment which can escalate into physical abuse because adults over time become insensitive to their actions. Abusive parents in the United States have stated that about two thirds of the incidents of abuse they committed have started as an attempt to change child's behaviour.²⁸



²³ For example, see Douglas, E. M. & Straus, M. A. (2006), "Assault and injury of dating partners by university students in 19 countries and its relation to corporal punishment experienced as a child", *European Journal of Criminology*, vol. 3, no. 3, pp. 293-318; Woods, K. & Jewkes, R. (1998), *Love is a dangerous thing: micro-dynamics of violence in sexual relationships of young people in Umtata*, CERSA Women's Health Medical Research Council

²⁴ Strauss, M. (2001), *Beating the Devil out of them: Corporal punishment in American families and its effects on children*, 2nd edition, New Brunswick, NJ: Transaction Publishers

²⁵ Juul, J. (1995) *Vaše kompetentno dijete*, Zagreb: Educa. [Your competent child. Croatian language]

²⁶ Gershoff, E. T. (2002), "Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review", *Psychological Bulletin*, vol. 128, no. 4, pp. 539-579

²⁷ Vasta, R., Haith, M. M. i Miller, S. A. (1998). *Dječja psihologija*. Jastrebarsko: Naklada Slap. [Children psychology. Croatian language]

²⁸ Gershoff, E. T., i Bitensky, S. H. (2007). The case against corporal punishment of children: Converging evidence from social science research and international human rights law and implications for U.S. public policy. *Psychology, Public Policy, and Law*, 13(4), 231–272.

4. Child’s right to dignity and physical integrity is equal to the right of any (adult) person, so we cannot justify its violations based on tradition, culture, religion or any other legacy from our civilisations.

The first article of the Universal Declaration of Human Rights (1948)²⁹ reads: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”. When it comes to children, the universality of this article in most of communities is disputable. In addition, both mind and conscience of a child, as a human being equal to an adult, are questioned, because the violence undermines their dignity and fundamental freedoms. The problem lies in practice of localisation of human rights at the level of communities with their own dynamics, which speak and live in different ways³⁰. **However, even if we question the argument of universality of human rights and their applicability on a child (and we ought not to), we cannot look for support for corporal punishment of children (except in the right to unlimited will and power of the adults) in the community values such as culture or religion.** Without the intention to open a discussion around definitions of culture, one of its main features emerges that being its dynamics, i.e. progress. **The role of culture in human life is humanisation; improvement of natural human qualities and traits. Values that do not contribute to progress should be abandoned, and nurture universal principles that lead to further humanisation of people.** Social importance of a family has cultural implications, but existential importance of the family is the same everywhere.

All religions promote the principles of peace, non-violence, dignity, compassion, justice, and Abrahamic religions are based on equality of all people before God. Violence against children is in conflict with fundamental religious teachings. That was indicated in a study done by the Network of imams and religious leaders for children’s rights in Mauritania, which did not find basis for use of violence in Qur’an, or Islamic practices. The role model and leitmotif of the Christians is the life and work of Jesus Christ. There is no basis in saying that Jesus Christ quoted the Holy Scripture in order to justify physical violence against children.³¹ The evidence about his life indicates mercy, compassion and protection for the weaker. The importance of this issue and speaking up against corporal punishment was illustrated by many religious leaders, and one of such efforts resulted in signing of the declaration on “Multi-Religious Commitment to Confront the Violence against Children” signed in Kyoto, Japan, in 2006, which calls for legal prohibition of violence against children and establishment of mechanisms which could help religious communities to take part in implementation of these laws.³²



²⁹ <http://fmrsp.gov.ba/s/images/stories/Opsta%20deklaracija%20o%20pravima%20covjeka.pdf>

³⁰ Merry, S. (2006). *Human rights and gender violence* (1st ed.). Chicago: University of Chicago Press.

³¹ Ending Corporal Punishment Campaigns Manual, pp. 33

³² *ibid*

4. Steps to be taken to prohibit and completely eradicate corporal punishment

In cases in which certain practices are present “since ever”, such as the use of corporal punishment of children, it is necessary to develop a systematic approach to mobilise all levels of society. This is a paradigm shift, which in contrast to previous assumptions characterised by the view that “parent knows what is best for the child” (even in cases of slaps or beating), now requires building an environment and conditions which focus on the “best interest of the child” and acceptance of the relations based on “equal dignity” in which child’s inherent right to dignity and life free of violence is respected.

That is why it is necessary to consider three courses of action. The basis is **clear legislation specifically prohibiting and penalising any form of corporal punishment** for the purpose of child rearing under any circumstances, in order for state to remove all space for discussions on whether it is appropriate to use “one or two slaps” or any type of physical force for alleged wellbeing of the child. Studies and data collected from countries that have legally prohibited corporal punishment in all environments indicate positive trend manifested in a decrease in prevalence of attitudes which support it, as well as reduction in use of corporal punishment, in particular when compared to the countries where corporal punishment was not prohibited³³.

Furthermore, amendments in legal framework without changes in policies are unlikely to result in any significant progress. It is necessary to support through **strategic documents and action plans** which will penetrate into all structures of the society, i.e. encompass all environments in which children spend their time: from families, to alternative and day care centres, to educational institutions, religious institutions and correctional facilities. This also includes development of support programmes offering alternative to the use of physical force as a method of child-rearing and support to parents and other adults who continuously interact with children. Recommendation 19 of the Council of Europe (2006) advocates for **promotion of “positive parenting”** as a non-violent method of child-rearing which is based on nurturing and respecting the child, as well as identifying healthy boundaries based on equal dignity in the child - parent relations. In addition, children are able to provide a unique insight into their experience with corporal punishment and severe treatment, as well as the perspective about what can be done to stop this type of punishments. Experts with knowledge about child development and parenting play an important role in this process and should invest efforts into building partnerships with parents. Working in partnership with parents means respecting and encouraging potential and competencies of the parents, and providing new information and ideas that parents can try and modify in line with the needs of their children. In turn, this will provide useful feedback for the experts for their further work in this field. This level of action necessitates effective monitoring and evaluation mechanisms in order to measure the programme impact, as well as enable corrections and further modifications.

The third course of action is **continuous education of the public** on the harmfulness and failings of the corporal punishment. All stakeholders must take and promote a clear position regarding harmful effects of corporal punishment in the public discourse. The role of journalists through traditional (radio, television and print media) as well as new media (social networks) is also important, especially in view of the fact that corporal punishment is a rarely discussed topic, unlike sexual abuse, child trafficking and economic exploitation of children. Raising awareness about this issue and discussing it in public must be done in order to eradicate corporal punishment.

³³ More details on conducted research available at: <http://www.endcorporalpunishment.org/assets/pdfs/research-summaries/Summary-of-research-impact-of-prohibition.pdf> (accessed on: 18.11.2016.)

Prohibition of corporal punishment will put the country onto the path of eradication of this type of violence against children. Evidence from other countries³⁴ indicate that raising awareness about the damaging effects of this method of disciplining and education of the public, without parallel legal reform has had very limited effects. On the other hand, prohibition of corporal punishment by law, together with education of the general public, is likely to bring about a change in attitudes and behaviours towards children. In other words, activities of the civil sector (including the academic community, CSOs and media) and discussions alone are not enough for a breakthrough. ***In order to make this significant step forward and gain support from all stakeholders and general public, we must have legislative reform and leadership by the government.***

5. Steps to be undertaken

In order to prohibit and eradicate corporal punishment of children, it is necessary to:

Reform legislation by introducing the following measures:

- ✓ Introduce explicit prohibition of corporal punishment into relevant family laws, and laws regulating all environments in which children spend time, which in turn will ensure child protection throughout the country;
- ✓ Clearly prohibit corporal punishment and humiliation for the purpose of child-rearing in all future amendments of laws and bylaws related to family and/or child protection;
- ✓ Initiate introduction of framework law for child protection at the national level which would address and clearly prohibit corporal punishment for the purpose of child-rearing.
- ✓ In cases when corporal punishment against a child was used, order mandatory psycho-social measures, i.e. education and counselling about non-violent disciplining of children, as well as fines.

Ensure support system for prohibition of corporal punishment through relevant social policies, as follows:

- ✓ All existing strategic and action plans for children should include measures to combat corporal punishment (primarily focused on sensitisation of all professionals who work with children daily: social workers, professional staff at schools, academics, religious teachers, etc.);
- ✓ Introduce additional modules in pre-school and elementary school curricula about violence against children to increase sensitisation regarding corporal punishment in the family and other environments;
- ✓ Utilise Parents' Councils, parent - teacher meetings and other regular gatherings of parents to promote non-violent disciplining that respects child's dignity and integrity;
- ✓ Form a network of religious institutions that will advocate for eradication of corporal punishment through their work and activities and in line with religious teachings;
- ✓ Use the existing CSO networks dedicated to child protection to promote legal solutions and new activities;
- ✓ -Develop, implement, and use current manuals for (re)education of parents about positive parenting and non-violent disciplining;
- ✓ Ensure participation of children and young people in creating programmes for eradication of corporal punishment through student councils, school projects, school papers, debates etc.
- ✓ Encourage research and collect data on children experience regarding disciplining and corporal punishment for the purpose of monitoring and evaluation.

³⁴ More details on research available on: <http://www.endcorporalpunishment.org/assets/pdfs/research-summaries/Summary-of-research-impact-of-prohibition.pdf> (accessed on: 18.11.2016.)

Involve broader public into discussions about this issue, in order to raise awareness:

- ✓ Sensitise and encourage media participation and get them to promote eradication of corporal punishment of children by raising awareness about children rights, harmful effects and consequences of corporal punishment, as well as alternative methods of education that have better effect;
- ✓ Initiate broader debate in the academic community and among CSOs on human rights and rights of children.

6. Annex 1: *A brief analysis of laws and regulations in BiH that require an intervention to introduce explicit prohibition of corporal punishment*

7. Annex 2: *Frequently asked questions and answers about prohibition of corporal punishment*



Annex 1: A brief analysis of laws and regulations in BiH that require intervention to introduce explicit prohibition of corporal punishment

The Constitution of Bosnia and Herzegovina

Bosnia and Herzegovina has incorporated international legal sources into its legal system in three ways. First way includes providing the international instruments of human rights protection the same legal power as constitutions in BiH and annexes to the constitutions, as follows: in the Constitution of BiH through Annex 6 to the Dayton Peace Accord (16 conventions) and Constitution of FBiH through annexes to the Constitution (21 conventions). Some of those legal sources have an advantage over local laws (such as the European Convention for the Protection of Human Rights and Fundamental Freedoms or Convention on the Rights of the Child, as stipulated by the Constitution of BiH). According to Constitution of BiH, these conventions are an integral part of the legal system of Bosnia and Herzegovina and its entities, and interpretation of legal norms cannot be seen separately from general regulations of the international law. By putting a special emphasis on respect for human rights in general, and therefore the rights of children, in the Constitution of BiH, Bosnia and Herzegovina committed to having general principles of the international law as foundations of its legal system. This is the second way in which sources of international law have been given legal power in the legal system of BiH, therefore, being directly applied in the legal system of BiH as a part of general regulations and principles of the international law³⁵.

Laws that require interventions to introduce explicitly prohibition of corporal punishment:

1. The Family Law of Federation of Bosnia and Herzegovina³⁶

This law identifies and addresses violent behaviour in families in several articles. However, none of those articles explicitly mentions prohibition of corporal punishment or other degrading forms of treatment of a child for the purpose of child-rearing. With that intent, intervention is needed in the following articles: Article 4, paragraph 2; Article 127; Article 134, paragraph 3.

2. The Law on Protection against Domestic Violence of FBiH³⁷

This law is in force and it regulates protection against domestic violence, the concept of family and domestic violence, the type and purpose of protective measures for people who have committed acts of domestic violence, the manner and proceedings related introduction of protective measures, the protection of victims of violence within the family, the interconnectedness of all institutions working for protection against domestic violence and other issues of importance for protection against domestic violence in Federation of BiH. The definition of domestic violence, which is stated in Article 7 of the Law, does not include corporal punishment and other forms of degrading treatment of children for the purpose of child-rearing, so that an intervention would be required in this Article of the Law. In addition, one of the protective measures for perpetrators of domestic violence is the obligation of psycho-social treatment which can be included in the sanctions issued against the perpetrator of domestic violence, "in order to eliminate his violent behaviour or in case that there is the danger of repeating it" (Article 14). We believe that this measure is appropriate also for the perpetrators of corporal punishment against a child and use of other degrading treatments against a child for the purpose of child-rearing, and that it should be explicitly noted that this measure is also imposed for such behaviour of adults. This treatment involves counselling and training of parents about non-violent methods of child-rearing.

³⁵ Which is exactly the case with guidelines, rules, declarations and similar documents that are not mandatory in practice, but are accepted since their essence is in the principles of international law and human rights, some of which are referred to in this text (Riad Guidelines, Beijing Rules...).

³⁶ <http://www.fbihvlada.gov.ba/bosanski/zakoni/2005/zakoni/25bos.pdf> p. (accessed on: 10 November 2016.)

³⁷ <http://www.fbihvlada.gov.ba/bosanski/zakoni/2013/zakoni/9.html> (accessed on: 10 November 2016)

Rulebook on the manner and place of implementation of mandatory psycho-social treatment for the perpetrators of domestic violence ("Official Gazette FBiH", no. 60/06) would also need to be harmonised with treatment for perpetrators of corporal punishment against a child. Furthermore, perpetrators of corporal punishment need to be sanctioned in the same manner as perpetrators of domestic violence, and the Law needs to be amended in the same way as was the Law on Protection from Violence of Republika Srpska.

3. Law on Basis of Social Protection, Protection of Civilian Victims of War and Families with Children of FBiH³⁸

This law, alter alia, addresses the fundamental issues of social protection of citizens and their families, fundamental rights related to social protection and of beneficiaries of social protection rights, establishment and operations of social protection institutions and disability associations, and foundations of protection of families with children. Articles 31 to 45 describe the procedures of relocation of beneficiaries (which also include children) into another family or into an institution of social protection as a form of providing social protection. In this segment, it is necessary to clearly protect the children from corporal punishment and degradation for the purpose of child-rearing while they are in process of receiving such types of social protection. Also, Articles 48 to 51 regulate establishment of social protection institutions (which include alternative accommodations for children), and although functioning of these institutions is stipulated by laws and regulations at the cantonal level, it is necessary to supplement the Law by clearly prohibiting corporal punishment and degradation of a child the purpose of child-rearing in any type of social institution for accommodation and/or living of a child. In that manner, the prohibition will automatically relate to both laws and by-laws at the cantonal level. Articles 88 and 100 need to be supplemented in such manner that they explicitly state that they refer to both corporal punishment and degradation the purpose of child-rearing.

4. The Family Law and Criminal Code of Brcko District BiH³⁹

Article 3 of this Law prohibits violent behaviour against spouse or any other member of the family. Family Law refers to definition of domestic violence stipulated in the Criminal Code of Brcko District, Article 218 that does not note physical disciplining and other degrading treatments for a child the purpose of child-rearing, so the law needs to be amended in that sense and changes are required in these articles of these two laws, as well as the following articles of the Family Law: Article 110, Article 117, paragraph 3.

5. The Law on Social Protection of Brcko District⁴⁰

In order to introduce explicit protection from corporal punishment for children and degradation of children the purpose of child-rearing in all environments, it is necessary to revise the law in following articles: 48, from 52 to 59, 79, 81, 90 and 106.

6. The Family Law of Republika Srpska⁴¹

Article 6 of the Law needs to be supplemented with prohibition of corporal punishment and other degrading treatments the purpose of child-rearing. Article 81, paragraph 1, needs to be amended in the same manner.

³⁸<http://fmrsp.gov.ba/s/images/stories/Zakon%20o%20osnovama%20socijalne%20zastite%20zastite%20civilnih%20zrtava%20rata%20i%20zastite%20obitelji%20sa%20djecom.pdf> (accessed on: 24 November 2016)

³⁹<http://skupstinabd.ba/3-zakon/hr/Obiteljski%20zakon%20Brc--ko%20Distrikta%20BiH/001%202023-07%20Obiteljski%20zakon%20Brc--ko%20distrikta%20BiH.pdf> (accessed on: 10 November 2016)

⁴⁰<http://skupstinabd.ba/3-zakon/ba/Zakon%20o%20socijalnoj%20zas--titi/000%2001-03%20Zakon%20o%20socijalnoj%20zas--titi.pdf>

⁴¹https://advokat-prnjavorac.com/zakoni/porodici/zakon_RS.pdf (accessed on: 10 November 2016.)

7. The Law on Protection against Domestic Violence of Republika Srpska⁴²

Unlike the Law in FBiH and the Law in Brcko District, the Law on Protection from Domestic Violence of Republika Srpska stipulates in more detail the violence and its forms. Article 6 of this Law, in addition to different forms of psychological, physical, sexual and economic violence, also notes: *the threat of causing bodily injuries to a family member or a person close to him/her, and degrading methods of child-rearing*. However, we believe that, equally as in the aforementioned laws, the following formulation should be used: “corporal punishment and use of other degrading actions for the purpose of child-rearing”.

As in the Law on Protection against Domestic Violence of FBiH, it is recommended that the perpetrators of corporal punishment be issued measures of psycho-social treatment in order to remove the cause of the violent behaviour and their rehabilitation, i.e. in order to reduce and remove the danger of committing violent acts again. In that sense, it is necessary to amend Article 27 of this Law, paragraph 3, as well as the Book of Rules on Manner and Place of Implementation of the Protection Measure - Mandatory Psycho-Social Treatment.

8. The Law on Social protection of Republika Srpska⁴³

In line with proposed amendments to the FBiH Law, which we analysed in section 3 above, amendments need to be made to this Law as well, in Articles 7 to 11, and in Articles: 17, 18, 20, 38, 40, 42, 51, 55, 81, 101, 108, 109, 113, 115, 119, 120, 122, 127, and 145.

Positive example of legislation

Framework Law on Elementary and Secondary Education, Article 34, stipulates school environment as free from any form of intimidation, abuse, **corporal punishment**, insulting, humiliation or degrading treatment or harm for child's health⁴⁴. This practice should be followed when creating/innovating all laws and by-laws at all administrative levels.

⁴² https://advokat-prnjavorac.com/zakoni/zakon_o_zastiti_od_nasilja_u_porodici_RS.pdf (accessed on: 10 November 2016.)

⁴³ <http://pravnik.ba/wp-content/uploads/2015/03/ZAKON-O-SOCIJALNOJ-ZA%C5%A0TITI-RS.pdf> (accessed on: 24 November 2016.)

⁴⁴ http://www.mcp.gov.ba/org_jedinice/sektor_obrazovanje/dokumenti/zakoni/default.aspx?id=676&langTag=bs-BA, (accessed on: 24 November 2016.)

Annex 2: Frequently asked questions and answers about prohibition of corporal punishment

How I raise my child is my business alone!

When we become parents or obtain an education degree, it does not imply that we have unlimited rights over a child and that we can do whatever we want. As a society we have come to agree regarding each person's boundaries in mutual relationships and there are laws that protect those boundaries. In addition, we have behind us an entire century of research about children to help us identify 'what is the best interest of a child'. Parents are responsible for child's wellbeing, and that also means using child-rearing methods that are based on respect for child's dignity, not intimidation. By regulating this area, the government will not try to interfere with family relations to undermine them and criminalise the parents, but the just the opposite. This law will support families and children to build relationships based on respect.

Corporal punishment is effective and has been in use “since ever“, why should we stop now?

Parents and other guardians/caretakers misunderstand the effectiveness of corporal punishment. Its effectiveness is short-term. Yes, it usually stops the current behaviour of a child, but not because the child learned or understood what was wrong with her behaviour, but because the child gets scared. Corporal punishment does not have positive effect on future behaviour of the child, because it does not explain why certain behaviour is wrong. It does not encourage the child to understand *cause and effect*, build self-regulation and take responsibility for her actions, which are predispositions for optimal behaviour in a new situation. Corporal punishment contributes to child's greater self-regulation in the presence of a parent, but does not provide the right information and tools to the child to face similar challenges in future with more success. The very fact that corporal punishment has been here “since ever“, is not good enough reason to use it. Following numerous studies about the consequences of corporal punishment on children's development, the adults have the responsibility towards children to abandon those child-rearing methods that do not contribute to child's wellbeing (or inflict more harm than benefit both in the short and long term). The fact is that we live in modern families without ready-made solutions for our problems, without clear models, so that it is much harder for parents to surrender to the parenting challenge that is not about force and power, but about equal dignity.

The adult knows what is best for his/her child. Sometimes it is a slap/flick/smack...

Adults are not some beings on a higher level of development in comparison to children. The experience and wisdom of parents are certainly precious resources for child-rearing, however children are little people and we must not underestimate their development potential to understand, accept and express what they need, and provide valuable information to parents in this way. Children have their own human dignity and both physical and mental integrity. Adult-child relations cannot be viewed using the subject-object model, in which the child is always the object and recipient of the message. It is necessary to open up the relationship for mutual exchange and true learning, from which corporal punishment and infliction of pain must be excluded if we want to raise healthy individuals who are self-aware. Parenting brings numerous challenges, thus it is necessary to empower parents by introducing them to new approaches and knowledge so they would feel supported and be better able to cope with burden of parenting and child-rearing. A child is not the property of her parents, it has rights and the responsibility for her own life at all times, in line with her own psychological and physical abilities. It is very clear that in children-adults relations the responsibility for violence always lies on the adults.

If I don't use corporal punishment, the child will not respect me, I will lose authority and my child will be spoiled and not learn the meaning of real discipline.

The 'good old fear' is not basis for authority and respect, but for coercion and/or consequence of inflicting pain. At the core of respect for authority is the authenticity of the authority itself, namely WHAT is that authority like, not WHO it is. Respect is gained through personal example and own behaviour or is freely given. We cannot (physically) force a child to respect us. Fear makes child development and

expression of his potential more difficult. Discipline is achieved through nurturing the value of work and repeated investment of efforts into tasks, not by fear of slap.

My parents beat me as well, and there's nothing wrong with me.

We can only speculate about that. We cannot know what we would be like if we did not experience corporal punishment, and were raised in line with different principles. No one can dispute the pain and humiliation caused by corporal punishment, which we suppressed from our memory with time because we wanted to have a good relationship with our parents and cooperate in our own disciplining. It is pointless to blame adults for violent disciplining of children in the past, because it was a part of the culture and generally accepted norms, so that adults were expected to behave in that way. Development and progress of our civilisation also means that we need to abandon behaviours that are inconsistent with them.

If I don't hit my child, how will I prevent her from hurting herself?

A hit does not provide for protection. Parents and adults are RESPONSIBLE for safety and protection of children from injuries. This responsibility cannot be transferred to a child. If there is a fear that the child will burn herself, fall down the stairs, start crossing the street when it is unsafe, the parent can pick up, catch, pull, stop the child, and explain the danger. Those actions are fundamentally different from intentionally inflicting pain for the purpose of humiliating.

Why is it necessary to prohibit corporal punishment by law, why cannot we educate the adults about new child-rearing methods?

It is necessary to protect by law the right of a child to his own physical integrity and life without violence. It is necessary to protect by law a child's right to life without violence inside and outside the family. This does not exclude intensive education efforts regarding alternative approaches to disciplining and support to parents and other adults in how to care for children without use of violence. The law will compel all adults to focus on childcare in a new way. Parents will research new approaches and methods of disciplining, and make experts, politicians, media and activists working to ensure better life for children, will be in a situation that they have to provide a system of support for implementation of the law.

If corporal punishment is prohibited by law, many parents will end up in courts and numerous children will be in need of social protection.

The aim of the prohibition of corporal punishment is not to separate parents and children, nor to put parents in prisons. The aim of the government and the law is the best interest of a child and protection of a child's family life and this will be the crucial light motif in all processes related to this topic. Focus of the law is prevention and early intervention for the purpose of child protection, and not persecution and sanctioning of the parents/adults. In countries where legally corporal punishment has already been prohibited by the law, there is no record of an increase in number of court proceedings against parents or in number of children relocated from their families. The law seeks to send a clear message that human rights do not stop at the 'home door', and that legal provisions sanctioning corporal punishment/assault against an adult need to be applied to the corporal punishment against children. The law should provide as much protection for the child as it does for an adult. For example, we do not speed in an urban area because there is a speed limit prescribed by the law and for the reasons of protection of other participants in traffic, but also to preserve the life of the driver. In addition to protecting the child, this law would also protect the parents against "addiction to violence", so that when our slap does (not) "fix" a bad mark in school, if we do not repeat it or use even more forceful "disciplining" that would lead us deeper into the vicious circle of violence.

I don't beat my child; I just spank him a little bit

It is important to know that this is also a case of VIOLENCE being used for disciplining, and not some other method that will be effective long-term and lead a child to change his behaviour and which does not insult the dignity of a child, regardless of the fact that he is 'still just a child'. It is important not to approach the child from position of unlimited power, but from a position of responsible power of a parent, with dignity and respect.

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