



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

**BRIEFING ON TFYR MACEDONIA FOR THE COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN
PRESESSIONAL WORKING GROUP – July 2012**

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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 The Former Yugoslav Republic of Macedonia and the extent of law reform to date. In light of General Recommendation No. 19 on Violence against women (1992) and the links between corporal punishment of children and all other forms of violence including gender-based violence, 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 TFYR Macedonia, asking in particular what progress has been made towards prohibiting and eliminating corporal punishment in the home, and**
- **recommend to TFYR Macedonia, in the concluding observations on the sixth state party report, that prohibition of corporal punishment be enacted and implemented in 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 TFYR Macedonia's fourth/fifth report to CEDAW and lawful, violent "discipline" and punishment of girls

1.1 The fourth/fifth report of Macedonia to the Committee on the Elimination of Discrimination Against Women (24 September 2011, CEDAW/C/MKD/4-5) refers to article 9 of the Law on Child Protection as amended in 2009 and notes that it prohibits "imposing punishments or other kinds of inhumane behaviour" as well as other forms of violence against children (para. 87). However, it does not clarify whether this prohibition is applicable in all settings of children's lives, including within the family. To date, the Global Initiative has been unable to confirm this (or not). We hope the Committee will probe the extent to which the prohibition protects girls from violence inflicted under the guise of "discipline" and punishment within their homes as well as outside of them.

2 The law regarding corporal punishment of children in Macedonia

2.1 In Macedonia, corporal punishment of children is prohibited in schools, penal institutions and care settings, but there is uncertainty as to whether or not recent law reform achieved prohibition in the home.

2.2 Article 9 of the Law on Protection of Children (2000), as amended in 2009, prohibits "all forms of sexual exploitation and sexual child abuse (child pornography, child prostitution), forced procuring, selling or trafficking children, psychological or physical violence and harassment, *punishment or other inhuman treatment*, all kinds of exploration, commercial exploitation and abuse of children that violate basic human freedoms and rights and rights of the child" (emphasis added). Corporal punishment of children is therefore unlawful. But the near universal acceptance of violence in childrearing necessitates clarity in law that corporal punishment is prohibited in all settings, including by parents in the family home: such clarity appears to be lacking. Article 9a, added to the Law in 2009, states that the prohibition applies in public and private institutions but appears to say that its application to individuals only concerns those who are engaged in caring or educating children in a professional capacity, thereby excluding parents within the family home. Similar uncertainty characterises article 130, which provides for persons who inflict punishment and inhuman treatment on children to be fined.

3 Government statements on the 2009 law reform

3.1 Indications are that the Government is committed to protecting children from all corporal punishment but has yet to provide absolute clarity that this commitment extends to all forms of corporal punishment, however light, by parents. The Government accepted recommendations to prohibit corporal punishment "under all circumstances" and "in all areas" made during its Universal Periodic Review in 2009,² and in its Midterm Report on progress in implementing the recommendations in 2012 drew attention to the above mentioned 2009 law reforms, which came into force in 2010. However, no statement was made clarifying in which settings the prohibition applies. Similarly, when examined by the Committee on the Rights of the Child in 2010 and the European Committee of Social Rights in 2011 (see below), no confirmation was given that the prohibition extends to corporal punishment by parents in the home.

²² 5 June 2009, A/HRC/12/15, Report of the Working Group on the Universal Periodic Review: The Former Yugoslav Republic of Macedonia, para. 77(23) ; 25 February 2010, A/HRC/12/50, Report of the Human Rights Council on its twelfth session, para. 595

3.2 The Global Initiative is actively seeking clarity on the effect of the 2009 law reform.

4 Recommendations by human right treaty monitoring bodies

4.1 The **Committee on the Rights of the Child** first expressed concern at corporal punishment of children in Macedonia, and recommended its prohibition in all settings, following examination of the state party's initial report in 2000.³ In its concluding observations on the second report in 2010, the Committee expressed particular concern about the use of corporal punishment in the Educational-Correctional Institution and recommended immediate action to address this as well as prohibition of corporal punishment in the home as a matter of urgency.⁴

4.2 In 2008, the **Committee Against Torture** recommended that corporal punishment in Macedonia be prohibited in all settings.⁵

4.3 In 2012, the **European Committee of Social Rights** concluded that the situation in Macedonia was not in conformity with article 17 of the European Social Charter because corporal punishment was not explicitly prohibited in the home.⁶

4.4 In considering the implementation in Macedonia of the Convention on the Elimination of All Forms of Discrimination Against Women, we hope the Committee on the Elimination of Discrimination Against Women will now seek clarification from the Macedonian Government as to the application of the prohibition of corporal punishment and the extent to which girls are protected from violence in the guise of “discipline” in law and by way of other measures.

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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³ 23 February 2000, CRC/C/15/Add.118, Concluding observations on initial report, paras. 23 and 24

⁴ 11 June 2010, CRC/C/MKD/CO/2 Advance Unedited Version, Concluding observations on second report, paras. 38, 39, 40 and 41

⁵ 21 May 2008, CAT/C/MKD/CO/5, Concluding observations on second report, para. 21

⁶ January 2012, Conclusions 2011