

Ending family violence in Slovenia – confronting physical punishment of girls and boys



Information for the Committee on the Elimination of Discrimination Against Women from the Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org), September 2015

Introduction: family violence in Slovenia and CEDAW's examination of the fifth/sixth state party report

Violent punishment of children has a long and deep rooted history of social and legal acceptance. Even to this day, unless it is severe it is not readily perceived as “violence” per se or as an assault on a child’s human dignity. Except in states where it has been explicitly challenged through law reform and public education and awareness raising, it remains taken for granted in childrearing. For all these reasons, unless the law sends a clear message that all physical punishment, however light, is prohibited, it will continue to be considered lawful. In Slovenia, the Government has long been committed to prohibiting all corporal punishment and efforts to achieve this are under way.

We hope the Committee on the Elimination of Discrimination Against Women will raise the issue of violent punishment of girls and boys in its examination of Slovenia. In particular, we hope the Committee will:

- **in its concluding observations on the fifth/sixth state party report, welcome Slovenia’s commitment to prohibiting all corporal punishment of children and recommend that Slovenia continue its efforts to pursue the necessary law reform, thereby ensuring that *no form of violence within the domestic sphere is condoned, including by parents against their children.***

The remainder of this briefing provides the following further details:

1. Information provided to CEDAW by Slovenia in respect of corporal punishment
 2. The current law relating to family violence and corporal punishment of children in Slovenia and immediate opportunities for reform
 3. Treaty body and UPR recommendations on the issue made to Slovenia to date.
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1 Information provided by Slovenia to CEDAW in respect of corporal punishment

- 1.1 Slovenia’s fifth/sixth state party report provides information on measures to address violence against women and family violence, including the Family Violence Prevention Act 2008 and the Criminal Code 2008 which makes family violence an offence.¹ It makes no reference to violence that may lawfully be inflicted on girls and boys in the home, nor to current efforts to prohibit all corporal punishment.
- 1.2 The list of issues for Slovenia asks a number of questions concerning domestic violence.² Again, the Government’s responses do not refer to prohibiting corporal punishment, despite the state party’s efforts in this respect.³ No measures aimed at preventing domestic violence can be effective while

¹ 16 June 2014, CEDAW/C/SVN/5-6, Fifth/sixth state party report, paras. 21ff

² 13 March 2015, CEDAW/C/SVN/Q/5-6, List of issues, paras. 6, 7 and 8

³ 28 July 2015, CEDAW/C/SVN/Q/5-6/Add.1, Reply to list of issues

the law fails to protect all persons in the home from violent assault, even if that is imposed in the guise of “discipline”. Prohibiting corporal punishment is an essential component of legislating against domestic violence.

2 Laws on domestic violence and corporal punishment of children in Slovenia and immediate opportunities for prohibiting violent punishment of girls and boys

Summary

2.1 In Slovenia, legal reform in recent years has strengthened prevention of and protection from domestic violence, but it has so far failed to prohibit all violent punishment of children at the hands of their parents: the promotion of homes free from violence continues to be undermined by an inadequate legislative framework. However, the Government is committed to prohibiting all corporal punishment and efforts are under way to achieve this.

Detail

2.2 Some but not all forms of domestic violence are prohibited under criminal law: it remains lawful for girls and boys to be subjected to violent punishment. The Law on Prevention of Domestic Violence 2008 defines domestic violence as “any form of physical, sexual, psychological or economic violence by one family member against another family member ... irrespective of age, gender or any other personal circumstance of the victim or perpetrator of violence”; physical violence is defined as “any use of physical force by a family member that can cause pain, fear or shame, regardless of whether injuries were inflicted”. However, these provisions are not interpreted as prohibiting all forms of corporal punishment.

2.3 The Criminal Code 2008 introduced the new criminal offence of family violence (art. 191) – “whoever within a family mistreats another person, beats her/him, or in any other way treats her/him painfully or degradingly, threatens with direct attack on her/his life or limb to throw her/him out of the joint residence or in any other way limits her/his freedom of movement, stalks her/him, forces her/him to work or give up her/his work, or in any other way puts her/him in a subordinate position by aggressively limiting her/his equal rights shall be sentenced to imprisonment for up to five years”⁴ – but this is not interpreted as prohibiting all corporal punishment of children.

2.4 In 2012, a Family Code Bill, article 7 of which would have prohibited corporal punishment of children by parents and all other persons, was rejected by voters. In 2013, the Government reported to the Committee on the Rights of the Child that the child protection parts of the Bill had not been contested – the Bill had been rejected because of the part concerning same sex marriages – and that the Government still hoped that the new Family Code, including prohibition of all corporal punishment, would be adopted soon.⁵ In reporting to the Universal Periodic Review in 2014, the Government stated that the Family Code due for adoption in 2015 would include a full ban on corporal punishment.⁶ In March 2015, the Government reported to the Human Rights Council that “prohibition will be part of the revision of the Family Code that is under preparation”.⁷

2.5 Protecting children from violent punishment in the home in Slovenia requires clear prohibition of all corporal punishment. The current revision of the Family Code provides a key opportunity for explicitly prohibiting corporal punishment of children by parents and thereby sending a clear message that the family home is a place where no form of violence is tolerated.

⁴ 16 June 2014, CEDAW/C/SVN/5-6, Fifth/sixth state party report, para. 22

⁵ UNOG Summary of meeting, 6 June 2013

⁶ 10 December 2014, A/HRC/28/15, Report of the working group, para. 110

⁷ 4 March 2015, A/HRC/28/15/Add.1, Report of the working group: Addendum, para. 4

3 Recommendations by human right treaty monitoring bodies and during the Universal Periodic Review

- 3.1 Slovenia has received recommendations concerning prohibition and elimination of corporal punishment of children from the Committee on the Rights of the Child (2013, 2004)⁸ and the Committee Against Torture (2011).⁹ The European Committee of Social Rights has repeatedly concluded that the situation in Slovenia is not in conformity with the Revised European Social Charter because all corporal punishment is not prohibited, in its regular monitoring of states' implementation of the Charter (2012, 2005, 2003)¹⁰ and following a complaint brought against Slovenia under the Collective Complaints procedure (2015).¹¹
- 3.2 The Government accepted recommendations to prohibit corporal punishment made during the Universal Periodic Reviews of Slovenia in 2010 and 2014.¹²

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⁸ 8 July 2013, CRC/C/SVN/CO/3-4, Concluding observations on third/fourth report, paras. 37 and 38; 26 February 2004, CRC/C/15/Add.230, Concluding observations on second report, paras. 40 and 41

⁹ 20 June 2011, CAT/C/SVN/CO/3, Concluding observations on third report, para. 15

¹⁰ January 2012, Conclusions 2011; March 2005, Conclusions 2005; 1 October 2003, Conclusions 2003 Vol. 1, page 511

¹¹ Collective Complaint No. 95/2013, *Association for the Protection of All Children (Approach) v Slovenia*, Decision on the Merits, Adoption 5 December 2014, Notification 26 January 2015, Publication 27 May 2015

¹² 15 March 2010, A/HRC/14/15, Report of the working group, paras. 111(8) and 111(9); 10 December 2014, A/HRC/28/15, Report of the working group, paras. 115(113), 115(114), 115(115) and 115(116)