



Spare the child: Corporal punishment of children in Croatia

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Abstract: In Croatia corporal punishment is regulated and prohibited by law, but some gaps do exist and, due to other factors, such negative practice persists. A review of the legal framework is needed along with measures to prevent this practice and protect children from such a form of abuse.

Corporal punishment is [defined](#) by the United Nations Committee on the Rights of the Child (CRC-Committee) as 'any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light'. In that sense, corporal punishment violates internationally recognised human rights such as freedom from cruel, inhuman, and degrading treatment or punishment, and freedom from physical violence.

In their obligations under international human rights instruments and their calls for action under the Sustainable Development Goals ([SDGs](#)), governments have already committed to preventing and abolishing all forms of [child physical punishment](#). However, this is still a serious issue across the world and is widespread in many states, especially in Croatia.

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Several studies done by different organisations, for instance [UNICEF](#) and the [International Center for Research on Women](#) (ICRW), highlight that the practice of physical punishment at home or in other contexts is still ingrained in the thoughts of many parents who feel that abuse constitutes discipline.

Corporal punishment can have unanticipated negative consequences and is linked to a higher prevalence of externalising behaviour in youth, substance use, depression, juvenile delinquency, poor academic performance, and marital conflict as an adult.

However, a number of laws regarding the protection of children against corporal punishment which can be found dispersed in criminal law, family law, and the law on protection against family violence, still present relevant gaps.

Possible reinforcements of existing legal measures against such a practice, combining awareness-raising and guidance, must ensure that the law operates in the best interests of the affected children, in particular when parents or other close family members are the perpetrators.

The use of corporal punishment against children in Croatia

According to a [study](#) published in the journal *Child Abuse and Neglect*, the most prevalent form of family violence against children in Croatia is psychological aggression, followed by corporal punishment and physical abuse. The research was carried out on children aged 11, 13 and 16 in the city of Zagreb. The [results further show](#) that parents are the most common perpetrators of psychological aggression and corporal punishment.

A [survey](#) commissioned by UNICEF in 2013, of more than 1,700 parents of 0-6-year-old children found that 12 percent of parents believed corporal punishment was effective. More than 30 percent of parents of 3-year-old babies said that in the past week, they had 'smacked' or pulled the hair of their child.

In 2012, another [study](#) was performed to measure men's childhood experiences of violence. It was found that men who had experienced violence, including corporal punishment, during childhood, were more likely to perpetrate intimate partner violence, hold inequitable gender attitudes, be involved in fights outside the home or robberies, pay for sex and experience low self-esteem and depression, and were less likely to participate in domestic duties, communicate openly with their partners, attend prenatal visits when their partner is pregnant and/or take paternity leave. These findings showed a high level of tolerance toward using corporal punishment in the home because violence was not perceived as an act of violence but rather as a means to educate and raise children.

Gaps in national criminal law

In 2000, with amendments to the Criminal Code of 1997, the criminal offence of violent behaviour in the family was introduced into the [Croatian criminal legislation](#) for the first time. More specifically, [Article 215\(a\)](#) states that

A family member who by his or her violent, abusive or particularly insolent conduct puts another member of the family into a humiliating position shall be punished by imprisonment for three months to three years.

On the other hand, [Article 213](#) applies to some forms of corporal punishment of a child, prescribes a prison sentence of six months to three years for a parent, adoptive parent, guardian and another person who abuses a child or a minor, i.e. from one to five years if the criminal offence caused serious physical injury to the child or minor or their health was severely impaired.

Domestic violence committed only to a child is a criminal offence as per Article 213 and does not coincide with the criminal offence of Article 215(a), which in practice does not apply to children, who are brought to a humiliating position in the family, but only to adult family members. It should be noted that any behaviour that has been carried out in any of the modalities of the criminal act of violent behaviour in the family implies putting the victim in a [humiliating position](#). According to the UN CRC-Committee, eliminating violent and humiliating punishment of children, through law reform and other necessary measures, is an immediate and unqualified obligation of state parties to the UN Convention on the Rights of the Child ([CRC](#)). Thus, Croatian law needs to be amended by including 'putting them in a humiliating position' in Article 213, in order to avoid child discrimination against adults, and to [align](#) the threatened punishments in Articles 213 and 215(a).

Gaps in the national Act on Protection from Domestic Violence (APDV)

Violence in the family is defined in Article 4 of APDV as:

any form of physical violence, regardless of the occurrence of physical injury, psychological, sexual or economic violence (...). Among the examples of behaviour that are considered domestic violence are corporal punishment and other forms of humiliating [treatment of children](#).

The vagueness of the provision on domestic violence in the existing [Criminal Code](#) and the fact that violence in Croatia is considered both a criminal offence and a misdemeanour intervenes with the *ne bis in idem* principle. The legislator did not determine a clear line of demarcation between violent behaviour in the family as a misdemeanour, and violent behaviour in the family as a criminal offence.

From the perspective of legal certainty, the distinction between a misdemeanour and a criminal offence is important in relation to the prescribed punishment. The only difference is that the criminal offence under [Article 215\(a\)](#) results in putting a family member in a humiliating position, while the other elements of this punishable behaviour are mostly identical to the misdemeanour founded on the [Act on Protection from Domestic Violence](#).

However, the absence of uniformities or standards regarding the interpretation of this element does not help in distinguishing the criminal offence of 'violent behaviour' from the misdemeanour of the same name. According to the 2018 report of the Croatian Ombudsperson for Gender Equality, the police and the courts have overwhelmingly failed to qualify violence that takes place within a family as a criminal act, and the vast majority of such cases has continued to be qualified as a misdemeanour.

The need to explicitly ban corporal punishment

As articulated in the CRC-Committee's General Comments n. [8](#) (2006) and n. [13](#) (2011) in relation to Articles 19, 28(2) and 37 of the [CRC](#), states must explicitly prohibit by law all forms of violence against children, including corporal punishment, [in all settings](#). In addition, the explicit prohibition of corporal punishment and other cruel or degrading forms of punishment is required in the civil or criminal legislation of each state who has banned corporal punishment, in order to make it absolutely clear that it is as unlawful to hit or smack or spank a child as to do so to an adult, and that the criminal law on assault does apply equally to such violence, regardless of whether it is termed 'discipline' or 'reasonable correction'. This may require an additional provision in the Croatian criminal code so as to avoid confusion.

Corporal punishment in schools in Croatia is not allowed, but there are no explicit laws prohibiting corporal punishment, such as spanking or slapping. [Article 92\(2\)](#) of the Family Act establishes an obligation on parents to protect children from corporal punishment by other persons, but this can leave room for interpretation. Language loopholes also can compromise prohibition. Thus, the next Croatian reform process must adopt an explicit, unambiguous language that leaves no room for [confusion](#). Prohibition of corporal punishment means all forms (from the mildest to the blatantly violent) and all occurrences (from the occasional to the repeated). If a provider does not explicitly refer to 'corporal punishment and other humiliating and degrading treatment' – instead of prohibiting 'all forms of violence' – it leaves room for doubt as to whether a 'light smack' would be considered lawful, as [observed](#) by the UN CRC-Committee in 2022.

Awareness reform: how can Croatia enhance its protection for children?

Although legal bans on corporal punishment are an important step in promoting the children's right to protection from abuse, bans alone may not be sufficient to change beliefs and behaviours unless combined with public awareness campaigns to publicise the bans and with educational materials to provide parents with alternate means of discipline. In countries that have outlawed corporal punishment, public awareness campaigns regarding the change in laws have ranged from virtually nothing to extensive campaigns that continue even [years after the bans](#).

Several public awareness campaigns, such as the [pan-European campaign](#) by the Council of Europe, have been developed to promote laws involving corporal punishment, to impart knowledge regarding the negative effects of corporal punishment, and to build capacity in using non-violent forms of discipline. Social campaigns focusing on the negative effects of corporal punishment and alternative methods of childrearing do not produce immediate results but can be effective tools for implementing desirable changes.

To have a successful ban, not only the legislation measures but also public information campaigns, intervention by social authorities, and track-keeping with data collection are needed.

Looking ahead

While corporal punishment seeks to stop a child from behaving in a certain way, positive discipline techniques can be used to make a child understand and learn desirable and acceptable behaviours without the fear of punishment.

The analysis of practice and available data in Croatia shows that, although there is a political determination to protect abused children in the best possible way and to prevent corporal punishment, there is still room for improvement in the aforementioned areas of national law. If this issue is not handled by reinforced laws, there will continue to be cases of violated children who may develop into abusers. The core goals are to secure and explicitly state in reformed laws that corporal punishment is banned and that hitting children is illegal, and to raise the level of personal and common responsibilities for the healthy development of children.