



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

MONTENEGRO

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 3rd session, 2008

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Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General's Study on Violence against Children, as a highly significant issue, both for asserting children's status as rights holders and for the prevention of all forms of violence.

The Global Initiative to End All Corporal Punishment of Children (www.endcorporalpunishment.org) has been regularly briefing the Committee on the Rights of the Child on this issue since 2002, and since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee. There is growing progress now across all regions in challenging this very common form of violence against children. But we are concerned that many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope that the UPR Process will give particular attention to states' response, or lack of response, to the concluding observations from treaty bodies, on this and other key issues.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies, and regional human rights mechanisms, have condemned all corporal punishment. In October 2006, the report of the UN Secretary General's Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment, setting a goal of 2009.

Summary

This briefing describes the legality of corporal punishment of children in Montenegro, which is yet to be examined by the Committee on the Rights of the Child. We hope the Review will highlight with concern the legality of corporal punishment in the home and alternative care settings, and recommend that the government introduce legislation to prohibit corporal punishment of children in all settings.

1 Legality of corporal punishment in Montenegro

1.1 Corporal punishment is lawful in the **home**. There is no specific recognition of a “right” to administer corporal punishment in the Penal Code (2004), but corporal punishment is not explicitly prohibited. A statistical review by UNICEF found that 42% of children aged 2-14 experienced “minor” physical punishment in the home in 2005-2006.¹

1.2 Corporal punishment is prohibited in **schools** and in the **penal system**. However, interviews with young offenders, carried out as part of a UNICEF assessment of the juvenile justice system, revealed that many had experienced physical punishment during custody in penal institutions.²

1.3 There is no explicit prohibition of corporal punishment in **alternative care settings**.

2 Recommendations by human rights treaty monitoring bodies

2.1 Montenegro has yet to be examined by the Committee on the Rights of the Child.

¹ UNICEF (2007), *Progress for Children: A World Fit for Children – Statistical Review, Number 6, December 2007*

² Conragan, C. (2002), *Children in conflict with the law: Victims of the transition – An assessment of the juvenile justice systems in the Republics of Serbia and Montenegro*, UNICEF