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## **DETECTION, CONSEQUENCES AND INFLUENCE OF INJURING A CHILD BY A CORPORAL PUNISHMENT AS A METHOD OF UPBRINGING**

**ABSTRACT:** Upbringing of a child and choosing a method, consciously or unconsciously, has existed since parenting. The aim of this paper is to present the choice of a violent method in upbringing – a corporal punishment of a child, the way how it affects a child's development and consequences it can cause. Having in mind the complex and sensitive character of the phenomenon, the topic was explored from the aspect of a legal science, but also from the point of non-legal disciplines, such as psychology, sociology of a family and pedagogy. Observations of the achievements from the point of a child's psychology are of an exceptional importance for the analysis of the consequences that a corporal punishment has on a child. The conclusion indicates that, although the family environment is the most desirable environment for a child, the choice of violent methods in education affects the proper growth and development of children, and it can lead to both temporary and permanent consequences related to a child's mental and physical health as well as its emotional development. There are difficulties in determining how violent parenting affects a child's emotional and physical safety and health, unless the result is a more serious physical injury or death. Although the responsibility lies primarily with the family and the activities of the parents, in practice, the

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most desirable approach is a close cooperation of all adults working with children, including educators, doctors and the whole society.

**Keywords:** *injuries, violent methods, psychological consequences.*

## **1. Corporal punishment in upbringing**

The concept of corporal punishment can be studied from both, legal and a medical point of view. International legal standards recognize the right of human dignity for every child, as well as the right to legal protection (General Comment No. 8., p. 5). The protection of the child's right to proper development is one of the basic principles of international law, too. However, while the interpretation of the conceptual definition what proper development implies is a central concern of disciplines such as psychology, pedagogy, sociology, as well as various medical fields, there is not much analysis of the child's right to proper development (Peleg, 2012, p. 3).

Proper development includes the choice of parenting style, which implies relatively consistent ways of behaving in order to establish overall relationship with the child (Stefanović Stanojević, 2006, p. 77). The modern form of upbringing means a relationship that includes rights and obligations on both sides. It is desirable to include schools, social and health institutions, other members of the community, to reach a common goal – the proper development and guidance of the child towards adulthood. The definition of upbringing, without entering further into the field of pedagogical and psychological sciences, should be understood as a relationship of love and respect in which a child develops properly and healthy, having in mind mental, emotional and physical development, on the way to adulthood.

The traditional model of upbringing, which is still present in our country, includes elements of corporal punishment, which directly endangers the child's right on physical integrity, human dignity and the right to equal protection before the law. The real scale of the problem is underestimated in many countries. It is partly because assessments are made on the basis of administrative data, by health and justice system, rather than the results of national surveys, and partly as a result of the widespread view, that violence is seen as a social norm rather than a problem requiring attention (WHO & ChildPact, 2020, p. 13). It should be emphasized that "elements of domestic violence is most common in women, children, and elderly people" (Počuča, 2010, p. 51).

We will mention in the same context the example of traditional cultures of Southern Asia, where corporal punishment is quite common, and where

research done by international organizations has revealed extensive lists of various forms of child injury, over forty. One such list, based on discussions with children and social workers, included: hitting with the stick, forcing children to kneel for a long time, tying, twisting ears, and more (Save the Children, 2008, p. 11). However, in accordance with the opinion of the World Health Organization (WHO), physical assault on a child should not be understood only as a body injury, but also as harm to the health and human dignity of the child (Makzoum, 2015, p. 11).

The attitude about the acceptability of corporal punishment of a child is changing. It has long been considered one of the educational methods of influencing a child's behavior, which is conceptually different from physical violence. However, over time, it became known how this way of treating a child can affect the child's psyche and self-confidence.

The Committee on the Rights of the Child expressed the opinion that corporal punishment is "any punishment by which physical force is used with the intention of causing pain or discomfort, no matter how easy it may be". It usually involves hitting (slapping, hand, stick, other objects) but also kicking, shaking, throwing a child, scratching, pinching, biting..." (General Comment No. 8., chapter III, para. 11).

According to a recent UNICEF survey from 2016, which referred to the former Yugoslav republics, violence against children is quite widespread, so in Macedonia and Montenegro about 70% of children have experienced corporal punishment, in Bosnia about 55%, in Serbia more than 40%. Survey included children aged 2 to 14 years old (UNICEF, 2021).

We will mention also the research conducted in Institutions for social protection, which showed that almost half of the number of children were exposed to violence by relatives, before coming to the institution (Srna & Stevanović, 2010, p. 8).

In the United States, for example, there is a consensus that, except in cases of serious physical injuries, people outside the family environment do not get involved, as injuries other than "serious" are a family matter. Corporal punishment in the sense of "reasonable" is allowed, and "inappropriate discipline" is not allowed. It can be concluded that the most important is to distinguish the degree of injuries, so some forms are acceptable, while others are not (Colleman, Dodge & Campbell, 2010, p. 108).

Today, most experts in Serbia believe that corporal punishment of a child is a serious violation of children's rights and demand a complete ban (Profession and activism against corporal punishment of children).

## 2. Influence and consequences of corporal punishment

Corporal punishment can be a direct cause of a large number of injuries, even the death of children. Research testifies to the seriousness of physical violence that children experience in the name of "disciplining" in upbringing. The risk of escalating violence is increased due to the fact that adults, who raise children in this way, are often very angry or under some kind of stress, which can easily lead to an increase in use of force.

The immediate consequence of corporal punishment for a child is to cause feelings of humiliation, anger, helplessness, increased sensitivity. However, children can also become indifferent, confused and insensitive, and the consequences themselves are difficult to be measured. Consequences can also be physical (somatic disorders, disability), emotional difficulties, changed self-image, post-traumatic stress, mental retardation. Selective disorders, developmental disharmony, intellectual inhibition, problems with concentration can also occur (UNICEF, 2017, p. 7).

Exposing a child to violent behavior at an early age can impair brain development, damage parts of the nervous system, as well as the endocrine, circulatory, musculoskeletal, reproductive, respiratory and immune systems, with life consequences (APA PsycNet: ACE Study, 2021). One Scandinavian study showed that children exposed to violent behaviors grow into adults who are more vulnerable and more susceptible to the negative health consequences of violence they might experience in adulthood. If those children are exposed to violence later in life, they are at higher risk of mental health problems (Thoresen, Myhre, Larsen, Aakvaag & Hjemdal, 2015, p. 19).

Medical term defined in the scientific literature as ACE, Adverse Childhood Experience, (Thoresen et al., 2015, p. 22) represents a traumatic life events a person experienced during childhood and remembers when grows up, which includes among other cases, behavior with elements of community violence. One of the consequences is an uncertain pattern of bonding in relationships (Thoresen et al., 2015, p. 52). Several negative effects of corporal punishment are considered in the professional literature (Nešić, Popović & Ćitić, 2018, p. 243). It has been noticed that three types of aggression are developing, imitative, reflected in the learning of aggressive behavior by imitating the actions of parents; operative aggression, which is an attack as a form of escape, and deceptive aggression, reaction to punishment directed at any person. Another consequence, considered as the most serious danger is a permanent disruption of social relations (Nešić et al., 2018, p. 244).

### **3. Consequences of physical development**

The health aspect is reflected in a consequences ranging from direct endangerment of life and severe disability, to subtle but permanent deformations in the process of forming the child's personality (Stevković, 2006, p. 26). In addition to the consequences for health that manifest themselves in the form of various disorders in mental development, the consequences of body injuries can be visible or not, and the most severe is the death of the child (Mihić, 2002, p. 55). The younger the child, the more serious the consequences of corporal punishment, and injuries of the skin and subcutaneous tissue are reported, when traces of the objects can be seen (Banjanin Đuričić, 1998, p. 50). Among the long-term consequences, the literature mention injuries and damage of the head, eyes, jaw, nose, ear, skull fractures, deformities and disability, but also mental retardation, blindness, cerebral paralysis. Studies in the UK indicate the death of one child per week (Elliman & Lynch, 2000, p. 197). The most serious consequence of physical violence is certainly death. Further, permanent disability, injuries of organs and chronic diseases. The most common causes of death of children are head injuries (40-50%), liver and spleen injuries, caused by a hit to the abdomen, and in a smaller percentage injuries of the pancreas, kidneys and adrenal glands, when the mortality rate is up to 50% of hospitalized children (Milosavljević Đukić & Tankosić, 2018, p. 72).

Research has also pointed to the fact that, no matter what moves a parent who uses corporal punishment, a large percentage of this punishment turns into physical abuse. Due to the proven close connection between these two phenomena, and based on the analysis of the causes of child mortality from physical abuse in thirty developed countries, UNICEF defined corporal punishment as "the most common form of violence in the industrialized world (Gershoff & Bitensky, 2007, p. 242). The criminological definition of the term refers to the phenomenological and etiological characteristics of each form of abuse that violate the physical and mental development of the child (Ibid, p. 242).

As one way to reduce child mortality, UNICEF strongly advocates a global ban on corporal punishment. Physical assaults on a child can be considered a form of child abuse, since many authors consider physical abuse of a child in the family by the physical actions of a parent or guardian, which intentionally, by using physical force, with or without other objects, cause or may cause physical injury or death of a child (Ljubojev, 2008, p. 87).

#### **4. Detecting situations of corporal punishment of children**

In the most traditional context, respect of the right to life means a ban on endangering life, or taking life away. However, when it comes to the child, the right to life, survival and development needs to be interpreted more broadly, as a set of all activities to provide a child with a healthy and safe environment, but also healthy growth and personal development. In that sense, the family environment can be risky for a child.

It was only during the nineteenth century that, rarely, teachers, educators and employers used to write about violence against children. At the beginning of the twentieth century violence perpetrated by parents in the family environment was revealed (Nikolić Ristanović & Konstantinović Vilić, 2018, p. 138). Contemporary literature combines all forms of violence against children through the comprehensive notion of “abuse and neglect”. According to the social protection system institutions records, the number of families in which children were victims of violence is yearly growing, e.g. in 2013 that number was 3637, and in 2017 – 8292 (UNICEF, 2019, p. 44). UNICEF survey showed that every third parent in Serbia is of opinion that “the beating stick came from heaven” and physical force is used when upbringing a child (Ombudsman and UNICEF against corporal punishment of children).

The inclusion of clinical and psychiatric aspects influenced the definition of “*battered child*” syndrome as a medical diagnosis, which term includes “serious” injuries inflicted on a child by parents and other adults.

The risk we mention is reflected in the difficulties of detecting violent behavior, and in practice two ways of detecting are recognized (Išpanović Radojković, Ignjatović & Kalezić Vignjević, 2011, p. 68):

- Detection by recognizing signs of injury on the child or by observing the behavior of the child and family members.
- Detection when the child directly entrusts to a close person, as well as indirect knowledge by another person close to the child.

Mentioned methods of detection are important because in childhood it often happens that children are injured in various ways, which do not include injuries by adults, as a way of disciplining a child, by using corporal punishment. The literature lists certain indicators that describe how child suffers from physical attacks. Physical indicators include injuries of soft tissue, skeleton and internal organs, without adequate explanation (Žegarac, 2004, p. 25).

The problem of injuring a child by the practice of corporal punishment is difficult to understand properly without cooperation that includes all adults in

contact with children. UNICEF reports show the extent of all forms of violent behavior, using criteria which includes human rights, public health and the child's health care. Results of the report are warning that "permanent change is needed" (Pinheiro, 2006, p. 15), and in addition entire community should accept responsibility for improving children's health. Professionals, such as doctors, psychologists and social workers, have a major role when it comes to detecting situations that might involve corporal punishment. While physicians deal with physical consequences, psychologists and social workers investigate the social and behavioral effects (Halu Halu, 2013, p. 35). However, when we discuss about the need for preventive activities, it seems insufficiently clear who should be responsible for detecting situations in which a child is exposed to corporal punishment as a way of upbringing.

Our legislation (Family Law, 2005, Art. 263, para. 3) defines the duty of state bodies, various institutions (for education, health care, and social protection) as well as all citizens to, once when recognized, report violent behavior towards a child to the City center for social services, institution representing the guardianship authority, as well as to inform the Public Prosecutor. The law stipulates that the obligation to report applies to every case of abuse and neglect, which indicates that corporal punishment (as the use of force) is also covered by definition.

## **5. Protection of the child from injury by corporal punishment**

Corporal punishment has for a long time been recognized as a risk factor in a child's development. At the international level a global ban project has been launched in all countries in the world, and in most countries it is prohibited by law in schools and other institutions where children are present. The experience in countries where prohibition of corporal punishment is established are encouraging, and the Committee on the Rights of the Children supports by detailed guidelines possible ways to implement reforms (Save the Children, 2009, p. 44).

Children have the right to feel safe in all environments. In order to make it possible, one of the basic requirements is to detect situations of violent behavior and to adequately respond to it. In our country educational institutions are, in accordance with the law, obliged to form teams for protection against violence and to implement protection programs. To define the roles and clarify the procedures described, the Ministry of Education has drafted various documents: Special Protocol for the Protection of Children and Students from Abuse and Neglect in Educational Institutions, Manual for the Implementation

of the Special Protocol, Rulebook on the Institution's Response to Violence, as well as the Action Plan for the Prevention of Violence.

When we discuss about the judicial authorities and their activities, we could mention the European Court for Human Rights, which found that the practice of corporal punishment is contrary to the generally accepted standards of international legal protection of the child (Ware, 1983, p. 6). It is visible how strong the influence of the court practice, related to the change of attitude on corporal punishment is, in countries where it is acceptable way of treating children. This might be illustrated by the fact that, since year 2000 in England and Wales, it has become mandatory to take into account the opinions of the European Court of Human Rights, when court cases are related to corporal punishment (Arthur, 2005, p. 9). However, in some countries such an attitude has been standard for a long time, as in Italy in one court case back in 1996, the Supreme Court prohibited any violence related to the upbringing of a child (Country Report for Italy, 2019).

Obligations to directly protect children from all forms of physical and mental injury are contained in Article 19 of the Convention on the Rights of the Child, which stipulates that all members of the community have to engage, are obliged to report and institutions are obliged to investigate, monitor and address to the court for the protection, when necessary. A proposal for the necessary protection measures can also be found in the Council of Europe's Recommendation on the Prohibition of Corporal Punishment, as well as in General Comment No. 8.

## 6. Conclusion

In relation to our country, there are indicators that parents do not perceive "mild" physical discipline (e.g. slapping) as a violent method, but it is considered as "justified and reasonable" discipline. The reasons and/or excuse for the persistent survival of the method of corporal punishment during upbringing can be found in strong influence of tradition in our society. On the other hand, we might notice a lack of empathy in social relations, and insufficient cooperation related to adults with whom a child can come in contact. Most often, the reaction in society becomes visible once a child has been exposed to this form of violence for a longer period of time. Even then, there is doubt who is responsible for detecting the situation within the family environment. We believe that the responsibility remains with every member of society, as this is the only way for children to have an opportunity for their right to healthy and proper development to be respected. We can notice that the existing support programs for the prevention of violence against children currently

do not result with sufficient impact to change the legal norms. The willingness of top-level decision-makers to amend existing legislation, in a way to ensure an explicit ban on corporal punishment in the family environment – is a reflection of their commitment (UNICEF, 2020, p. 15). Until then, all adult members of society can be held responsible for disrespecting the child's right to physical integrity and the right to healthy and proper development.

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## **DETEKTOVANJE, POSLEDICE I UTICAJ POVREĐIVANJA DETETA TELESNIM KAŽNJAVANJEM KAO METODOM VASPITAVANJA**

**REZIME:** Vaspitavanje deteta i izbor metoda, svesno ili nesvesno, postoji od kada i roditeljstvo. Cilj ovog rada je prikaz izbora nasilne metode u vaspitavanju – telesnog kažnjavanja deteta, detektovanja pojave, načina na koji ona može uticati na detetov razvoj i posledice koje može izazvati. Imajući u vidu složen i osetljiv karakter pojave koja se proučava, tema se posmatra sa aspekta pravne nauke, ali i iz ugla nepravnih disciplina, kao što su psihologija, sociologija porodice i pedagogija. Dostignuća dečje psihologije su od izuzetnog značaja za analizu posledica koje po dete ima telesno kažnjavanje. Zaključci ukazuju da, iako je porodično okruženje najpoželjnija sredina za dete, izbor nasilnih metoda u porodičnom vaspitavanju utiče na pravilan rast i razvoj dece, a može dovesti do privremenih i trajnih posledica po psihičko i fizičko zdravlje deteta, kao i njegov emocionalni razvoj. Postoje teškoće da se utvrdi koliko nasilno vaspitavanje utiče na emocionalnu i fizičku sigurnost i zdravlje deteta, osim ukoliko je rezultat teže fizičko povređivanje ili smrtni ishod. Iako je odgovornost prvenstveno na porodici i postupcima roditelja, u praksi je najpoželjniji pristup bliska saradnja svih odralih koji rade sa decom, uključujući vaspitače, lekare i celokupno društvo.

***Ključne reči:*** povrede, nasilne metode, zakonodavstvo, posledice.

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