

# Respectfully Submitted

## POLICY REPORT for Parliamentarians

Courtesy of the Association for Reformed Political Action (ARPA) Canada



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*“The modern confusion between the basic political and social units – explicit in totalitarian systems, implicit in democracies – brings grief to society in the name of high principle.”<sup>1</sup>*

*- William D. Gairdner*

Since 1997, Canadian parliamentarians have introduced eight private member's bills to ban corporal punishment, also known as physical discipline or spanking. Senator Céline Hervieux-Payette made the most recent attempt, but her bill (Bill S-206) did not pass before her retirement in 2015. After the Truth and Reconciliation Commission released its 2015 Report, Prime Minister Justin Trudeau promised to implement every one of its 94 recommendations. Recommendation #6 calls for the repeal of section 43 of the *Criminal Code*, which permits parents to use reasonable disciplinary force.

In 2004, a court case challenging s. 43 proceeded all the way to the Supreme Court of Canada. The majority of the Court ruled that the provision is valid and constitutional. The Court also took the opportunity to clarify what is and is not permitted under s. 43 (see Chart 1).

Approximately half of Canadian parents say they use corporal discipline.<sup>3</sup> This number is much lower than a generation ago.

Spanking is quickly becoming socially unacceptable in Canada and the pressure to ban it is mounting.

Opponents of corporal discipline cite the well-being of the child as their central motivation. During a Senate Committee study of an anti-spanking bill in 2007, one Senator stated, “I define 'abuse' as hitting a child.” Another added, “there is no such thing to me as reasonable force... You either hit a child or do not hit a child, no matter how hard you hit.”<sup>4</sup>

The Supreme Court has already laid out strict restrictions on corporal discipline. But those who want to see s. 43 repealed believe that parents are never justified in using any force on their child.

### Chart 1: Current Restrictions on Corporal Punishment as determined by the Supreme Court of Canada<sup>2</sup>

Force must be sober and reasoned, address actual behaviour, and be intended to restrain, control, or express symbolic disapproval.

The child must have the capacity to understand and benefit from the correction (cannot be under age two).

Force must be “transitory and trifling”, must not harm or degrade the child, and must not be based on the gravity of the wrongdoing.

Force may not be administered to teenagers.

Force may not involve objects such as rulers or belts.

Force may not be applied to the head.

## Corporal Discipline

*Updated:* Fall 2016

## Examining the Research

“Adults who were subjected to physical punishment such as spanking as children are more likely to experience mental disorders,”<sup>5</sup> a 2012 CBC News story began. There were dozens like it at the time, all in response to a study published in *Pediatrics*.

However, a closer look at the research reveals an important detail that many leave out. The *Pediatrics* journal article looked at the effects of “harsh physical punishment (i.e., pushing, grabbing, shoving, slapping, hitting),”<sup>6</sup> which is different than the controlled spanking that Canada’s *Criminal Code* allows. Yet the media applied *these* findings on physically aggressive hitting to controlled spanking, without differentiating or giving context. This is symptomatic of the prevailing public discourse on this controversial subject. But not all physical discipline is the same. The research must differentiate between different methods of physical discipline.

*“I have looked at just about every study I can lay my hands on, and there are thousands, and I have not found any evidence that an occasional mild smack with an open hand on the clothed behind or the leg or hand is harmful or instills violence in kids”.*

*- Dr. Jane Millichamp*

Flawed research fuels much anti-spanking advocacy. Dr. Elizabeth Gershoff, a University of Texas researcher, recently updated her previous meta-analysis (a study of all the studies on a particular subject) on spanking, giving particular attention to distinctions between mild and aggressive forms of physical discipline. Gershoff and Grogan-Kaylor concluded that spanking was always harmful for children, even when carried out in accordance with the Supreme Court’s parameters (see Chart 1). Dr. Robert E. Larzelere, from Oklahoma State University, however, found a number of flaws with Gershoff and Grogan-Kaylor’s research.

First, the conclusions of Gershoff and Grogan-Kaylor’s meta-analysis rely entirely on correlations – for example, children who were spanked more often tend to be more aggressive. But correlation does not prove causation. It could well be that aggressive children were spanked more often because they were more aggressive, rather than the reverse.<sup>7</sup> In fact, only one of the studies in the entire meta-analysis compared a group that was never spanked to one that was and that study actually proved that spanking had a beneficial effect.<sup>8</sup>

Even worse, Gershoff and Grogan-Kaylor left out of the meta-analysis two studies that did compare individuals who were never spanked with those who were.<sup>9</sup> Although Gershoff and Grogan-Kaylor went out of their way to emphasize that their meta-analysis proves spanking is bad even when done carefully and in keeping with the law, the reality is that only 4 of the 75 studies specifically examined “hitting a child on their buttocks...using an open hand.” The truth has not changed, no matter how it is hidden or confused – the research that properly examines the effect of appropriate spanking shows it to be as good as, or better than, all other disciplinary tactics.

In 2007, researchers conducted the first ever scientific review of studies that compared physical discipline with alternative methods.<sup>10</sup> They examined 26 studies from the past fifty years and their conclusion was unremarkable: “Whether physical punishment compared favorably or unfavorably with other tactics depended on the type of physical punishment.” The study also looked at what they called an “optimal” type of physical discipline – “conditional spanking”. Conditional spanking is non-abusive, done sparingly, and under control – reflecting the parameters laid out by our Supreme Court (see Chart 1 above). It turns out: **“Conditional spanking was more strongly associated with reductions in noncompliance or antisocial behavior than 10 of 13 alternate disciplinary tactics.”** In other words, when physical discipline is administered in keeping with Canadian law, it is as good as or better than other forms of discipline.

With a 1-2-3-4 punch, the review findings also challenged the argument that the only positive outcomes of physical discipline are short-term compliance:

- 1) “The effect sizes of conditional spanking compared favorably with alternative tactics for all disruptive behavior problems, including antisocial behavior and defiance.”
- 2) “Physical punishment competed just as well with alternative tactics for long-term outcomes as for short-term outcomes.”
- 3) “[A]ll types of physical punishment were associated with *lower* rates of antisocial behavior than were alternative disciplinary tactics.”
- 4) “[T]his meta-analysis failed to detect negative side effects unique to physical punishment.”<sup>11</sup>

## Chart 2: Common Errors in Corporal Punishment Research

Physical discipline is not compared with alternative discipline methods;

Severe physical discipline is not distinguished from non-abusive physical discipline

Causation is often improperly inferred from correlation between physical discipline and aggressive behaviour.

These findings are consistent with a 2006 New Zealand study, the first long-term study in the world that separated individuals who were spanked with an open hand from those who were never spanked and those who were inflicted with severe physical punishment. It tracked 962 children, born in 1972 and 1973, until they were 32 years old. Jane Millichamp, the lead author, noted, “Study members in the ‘smacking only’ category of punishment appeared to be particularly high-functioning and achieving members of society.”<sup>12</sup> They found no evidence that parents who spanked their children progressed to abusive punishment.

Further, as a 2013 article in the *International Journal of Criminology and Sociology* pointed out, “Neither supporters (Gershoff, Grogan-Kaylor, [...]) nor critics of spanking bans [...] have been able to identify alternative disciplinary tactics that are effective in reducing child behavior problems in naturally occurring data.”<sup>13</sup>

## Sweden’s Smackdown

In 1979, Sweden became the first nation in the world to outlaw all physical discipline. This approach is often heralded as an example that all other civilized countries should follow. University of Manitoba professor Joan Durrant has been a leader on this front, thanks to her report, *A Generation Without Smacking*, which argues that Sweden’s model has been a huge success by changing attitudes about corporal punishment, reducing child abuse, reducing violence by children, and allowing professionals to intervene before violence escalates. Sadly, much of her research has been accepted without question, possibly because most of her sources were written in Swedish.

That was the case until Dr. Larzelere reviewed Durrant’s findings and found most of them to be completely out of sync with the data on which Durrant based her findings (see Chart 3). In his own research, Larzelere uncovered some highly disturbing trends: since 1981, the rates of all assaults against minors have increased dramatically. Criminal statistics in 2010 show 22 times as many cases of physical child abuse, 24 times as many assaults against minors by minors, and 73 times as many rapes of minors under the age of fifteen.<sup>14</sup> Although some increases may reflect changes in reporting practices, the consistency and magnitude shows that at least a significant part of the increase is real.

Anti-spanking advocates are quick to claim that any sanctions for spanking would be civil, not criminal. Parents would be taught proper parenting rather than thrown in jail. But does Sweden’s example bear this out? Consider the 2010 case of a mother and father from Karlstad, Sweden. Although the court concluded that they “had a loving and caring relationship to their children,” they were jailed for nine months each and were ordered to pay 25,000 kronor (\$11,000) to each of their three children who were spanked.<sup>15</sup> More damaging than the jail and fines, all four of their children were removed from their home. Legislators must ask themselves whether a child is better

off with their actual parents, who may occasionally administer physical discipline, or being forcefully removed from their parents and placed with someone else.

New Zealand followed Sweden's example and adopted anti-spanking legislation in 2007. In 2009, a whopping 88% of voters in a referendum asked that the law be rescinded.<sup>16</sup>

## The Underlying Issue: The State as Parent

Senator Hervieux-Payette, who campaigned to outlaw all physical discipline, declared: "Parents do not own their children. Children are individuals. Their protection should therefore take precedence over the protection of adults and over the imaginary risk of legal action against them."<sup>18</sup> If we were to apply this argument consistently, the implications for children would be devastating. Children are not intellectually capable of understanding the world around them, nor capable of exercising their own rights; someone must do so on their behalf. We believe parents are best for this task, not the state.

Not only do parents (usually) have a biological connection to their children, they also have an emotional, spiritual and relational connection with their children that the State lacks. This reality makes parents the best candidates for making informed decisions about raising their children. With the exception of cases of criminal abuse or neglect, the State should not interfere.

Canada is built on the foundation of liberty. The role of the State is limited to preserving an orderly society and punishing wrongdoers (including actual child abusers), so that the other institutions of society can go about their respective tasks and flourish. The institution of the family is independent of the State and accountable directly to God. History should teach us to fear the state that unduly interferes in family life.

## Recommendation

Parliament must uphold section 43 in Canada's *Criminal Code*, allowing for conditional physical discipline for those parents who choose it as an appropriate form of correction for their child. Parliament must also respect the jurisdiction of the other institutions that govern in society, especially the jurisdiction of families.

Respectfully submitted,

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### Chart 3: Findings from Dr. Larzelere's Review of Sweden's Smacking Ban<sup>17</sup>

Changes in attitude about corporal discipline occurred before the 1979 legislation, but very little since then.

Physical child abuse by relatives against children under seven increased 489% from 1981-1994.

519% increase in criminal assaults by children under age 15 (born after law), against children age 7-14. Compare with the 231% increase by 15-19 year-olds (who were 0-4 when the law was passed), 133% by 20-24 year-olds and only 53% increase by 25-29 year-olds.

A shocking 46-60% of cases investigated under Sweden's law resulted in children being removed from homes. 22,000 Swedish children were removed from homes in 1981, compared to 1,900 in Germany, 710 in Denmark, 552 in Finland and 163 in Norway.

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