



CORPORAL DISCIPLINE

This report considers evidence and arguments for and against corporal discipline of children by their parents. We conclude that Canada should not enact further restrictions on such discipline. Canada should respect parental discretion to discipline their children appropriately within existing legal limits.

In January 2023, a Calgary man pled guilty to three charges of assault due to inappropriate corporal punishment of his children. Court documents revealed that he had disciplined his children with a wooden spoon, plastic hanger, and stick for misbehaving and disobeying household rules. These and many other forms of physical discipline are crimes in Canada. The judge imposed a 15-month conditional sentence, followed by 18 months of probation.¹

Section 43 of the *Criminal Code* permits correcting a child using force. It says that “every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.”² This is not nearly so broad as some suggest. The Supreme Court of Canada in 2004 set strict limits on the parameters of physical discipline under section 43 (see Chart 1).³

Between 1996 and 2022, 14 bills have been tabled in the House of Commons and the Senate to ban all physical discipline of children, including discipline within the limits set by the Supreme Court in 2004.⁴ Calls to repeal section 43 have grown since 2015, when the Truth and Reconciliation Commission’s final report recommended its repeal.⁵ Although Prime Minister Trudeau promised to implement every one of the Commission’s 94 recommendations, his government has not introduced any bill to repeal section 43. Several private members’ bills have been introduced since 2015, but none have passed.⁶

Public Opinion

A 2023 poll revealed that 61% of Canadians report being physically disciplined as children. Additionally, 58% of Canadians moderately or strongly agree that parents should be allowed to physically discipline

Current Restrictions on Corporal Punishment as determined by the Supreme Court of Canada:

- 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 and may not be applied to the head.

- Teachers can use reasonable force to remove a child from a classroom or to make a student comply with instructions, but may not use force as punishment.

their children. That number drops to 26% when Canadians are asked about schoolteachers disciplining students (under Canadian law, teachers may restrain a child if necessary, but not strike a child or use force for the sake of punishment). Yet, even though 58% of Canadians agree that parents should be allowed to physically discipline their children, 51% of Canadians also support repealing section 43, with 38% opposed and 11% unsure.⁷ This shows that there is confusion about what exactly a repeal of section 43 will do to parental discretion when disciplining children.⁸ In 2018, a similar poll revealed that only 34% of Canadians supported repealing section 43.⁹ Thus support for repealing section 43 appears to have grown since 2018.

The Present Political Debate

Opponents of corporal discipline cite the well-being of the child as their central motivation for this proposed change to the *Criminal Code*. During a Senate debate on Bill S-251 (2021), Senator Stan Kutcher referred to section 43 as “an historical holdover from laws written in 1892 that permitted corporal punishment of employees, wives and children.”¹⁰ Since we don’t allow corporal discipline of wives or employees anymore, he asks, why do we still allow it for children?

It is indeed inappropriate and impermissible to treat a spouse or employee like a young child. Limited forms of physical restraint or discipline of a child may be appropriate and even necessary in certain contexts because of the child’s dependence, immaturity, and need for correction and protection. The nature of the relationship is also of great importance. The parent-child relationship is different than a spousal relationship or employment relationship, but it is also different than the child’s relationship with other adults. Parents have the closest

personal relationship with their children and an obligation to raise them in a way that fosters moral, physical, and psychological well-being.¹¹

Chief Justice McLachlin clarified in *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)* (2004), that “the decision not to criminalize [corporal punishment] ... is not grounded in devaluation of the child, but in a concern that to do so risks ruining lives and breaking up families — a burden that in large part would be borne by children and outweigh any benefit derived from applying the criminal process.”¹² The evidence of, and possible alternatives to, corporal discipline explained in the remainder of this report clarify this idea further. Removing section 43 from the *Criminal Code* risks imposing profound negative consequences on children and their families.

Senator Rosemary Moodie, speaking in support of Bill S-251 (2022), argued to the contrary and claimed that there is “no evidence at all” to establish the effectiveness of corporal discipline.¹³ Let’s take a closer look at the evidence.

Examining the Evidence

A 2021 narrative review of research on corporal discipline published in the *Lancet* sought to “summarise the last two decades of research on physical punishment in a format that is accessible to policymakers, community leaders, and practitioners.”¹⁴ The authors conclude that “the evidence is consistent and robust: physical punishment does not predict improvements in child behaviour and instead predicts deterioration in child behaviour and increased risk for maltreatment.” The authors recommend prohibiting physical punishment in all forms and settings.¹⁵

However, the problem that this 2021 literature review falls into, like many studies of physical discipline

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including the ones it relies on, is that it confuses the cause-and-effect relationship between physical discipline and outcomes. For example, studies that look at the correlation between spanking and negative behaviour do not demonstrate whether the spanking caused negative behaviour or sought to address existing misbehaviours.¹⁶ These studies often simply rely on correlations – for example, children who were spanked more often tend to be more aggressive. But correlation does not prove causation. It could be that aggressive children were spanked more often because they were more aggressive, rather than the reverse. Both spanking and antisocial behavior in a particular family have been found to be above average at some times and below average at other times. However, the studies fail to determine whether the spanking or antisocial behavior comes first.¹⁷ Even within one family, the frequency of spanking may vary between children, depending on their level of aggression.

The authors of one commonly cited meta-analysis of child outcomes of physical punishment admitted that, in 72% of the studies, “causal links between spanking and child outcomes cannot be established.”¹⁸ In the 28% of remaining studies, they recognize that the association between spanking and subsequent aggression in children could occur because previous defiance

in children elicited more frequent spanking.¹⁹ Other studies have also demonstrated that persistent defiance in children also predicts a higher likelihood of subsequent delinquency, crime, and other adverse outcomes.²⁰

One 2018 study claimed that the evidence against spanking has sufficient causal evidence to oppose spanking entirely.²¹ However, the way such studies are done fails to demonstrate the actual effects of corrective actions by parents. In fact, similar studies would also make professional corrective action by psychotherapists, educators, or physicians appear ineffective or harmful.²²

The purportedly evidence-based case against spanking would also call into question other, non-physical forms of corrective action, such as privilege removal, timeouts, grounding, warning, or talking to adolescents about risks of various actions, or even psychotherapy and medications.²³ All of these are correlated to negative behaviours. Beginning with an inadequate explanation of the relationship between corporal discipline and outcomes often results in faulty conclusions.²⁴

Many studies compare high rates of spanking, such as more than 4 times per week, with no spanking within the same time period, without clarifying what behavioural problem the parent is using spanking to address or demonstrating that alternative discipline methods

are more effective in correcting that behavioural problem.²⁵ A 2017 meta-study could find only five studies that isolated a group of never-spanked children. Three of these studies found that the outcomes of children who had been spanked were never worse and sometimes better than never-spanked children, particularly if the spanking was occasional or did not continue past the age of 8 or 11.²⁶

When researchers distinguish mild spanking from inappropriate physical punishment, spanking (a) appears effective as a back-up for other disciplinary methods for defiant children, (b) seems to deter defiance more effectively than alternatives, and (c) seemingly eliminates adverse effects if proper statistical controls are used. Studies that have looked at open-handed or phased-out spanking have found that the effects of spanking appear to be beneficial.²⁷ Backup or “conditional” spanking can be defined as “non-abusive (e.g., two open-handed swats to the buttocks when the administrator is not out of control due to anger), used to backup milder disciplinary tactics, ... [and] in response to defiance.”²⁸ This type of spanking is effective because it enforces cooperation with milder disciplinary responses, so that spanking can be phased out.

Other research examines the effects of “harsh physical punishment (i.e., pushing, grabbing, shoving, slapping,

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hitting),”²⁹ which is different than the controlled spanking that Canada’s *Criminal Code* allows. Yet these findings on physically aggressive hitting are also commonly applied 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.

The effects of spanking also vary by parent-child context. Some studies indicate that spanking is not harmful if children perceive it appropriately as motivated by love or as part of a consistent parenting strategy.³⁰ Additionally, various communities would be negatively impacted by a ban on all physical discipline. A study of American pediatricians indicated that black pediatricians often had more positive attitudes towards spanking and expected more positive outcomes as a result. Many of these black pediatricians were also concerned about the negative effects a spanking ban would have on their communities.³¹ A 2015 survey in the United States also revealed that one-third of black parents spank their children at least some of the time, compared to 14% of white parents and 19% of Hispanic parents.³² A recent study of African American families found that physical discipline, if and when used, was reserved for defiant behavior and contingent on the child’s age and the disciplinary context.³³

Additionally, even in studies that appear to find a general negative correlation

between corporal punishment and children’s behaviour, religious families within the data set typically have a lower likelihood of negative outcomes related to spanking. This may be due to the fact that religious parents are using corporal discipline deliberately and thoughtfully, with a specific set of guidelines for when and how corporal punishment is used, and as part of a consistent parenting strategy that children are more likely to understand.³⁴ Another study concludes, “in contrast to their counterparts from other (or no) religious backgrounds, children whose mothers belonged to conservative Protestant groups exhibited minimal adverse effects of corporal punishment.”³⁵

Alternatives to Physical Discipline

More careful research is needed on corporal and other forms of discipline. However, there is strong evidence to suggest that when physical discipline is administered in keeping with Canadian law, it is as good as or better than other forms of discipline.

As the title of an article by leading researchers on corporal discipline put it, “The outcomes of physical punishment are typical of all corrective actions.”³⁶ They go on to argue that, before opposing a widely-used medical or psychological treatment, practitioners should be able to provide reasonable evidence that it is less effective than an alternative treatment. The same is true for opposition to corporal discipline.³⁷ Flawed research fuels much anti-spanking advocacy. Even so, to oppose all forms of physical discipline, it is

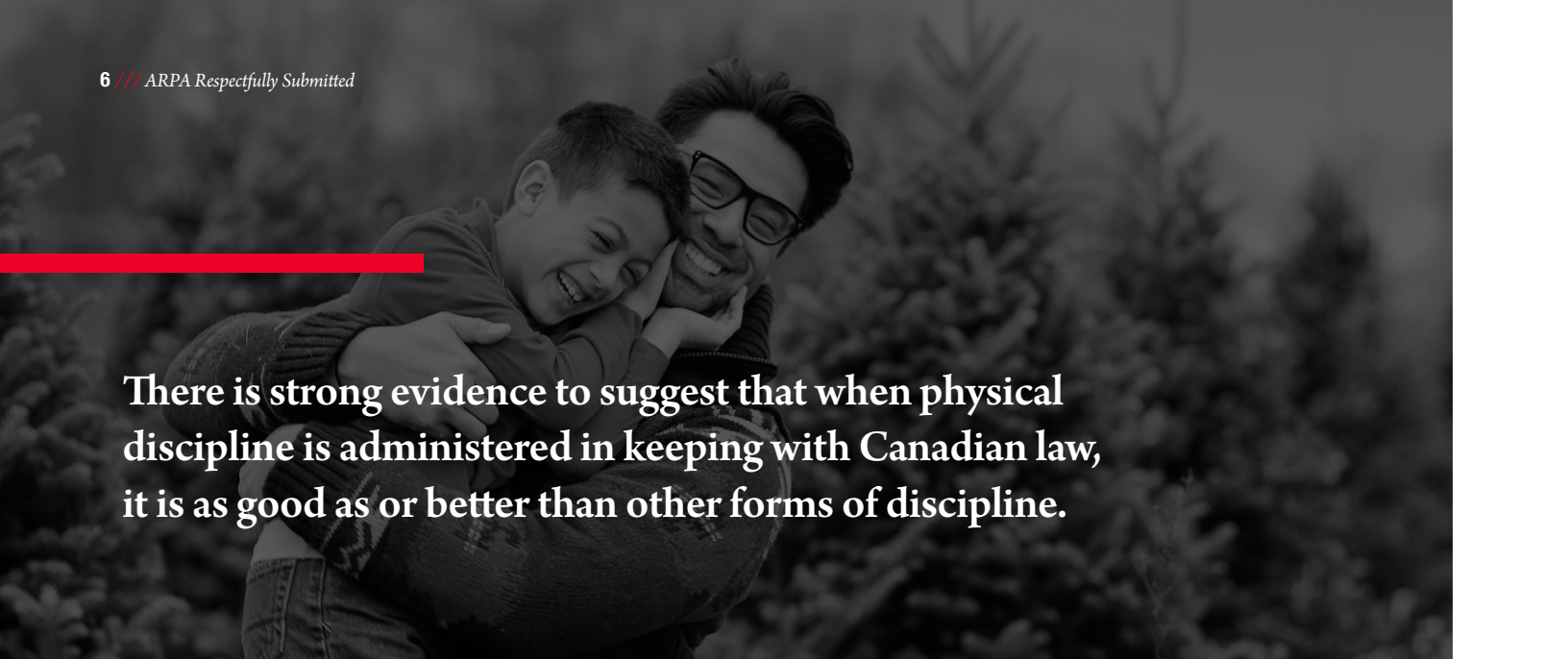
necessary to demonstrate alternative methods that are more effective at reducing negative behaviour.

In fact, “neither supporters 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.”³⁸ The only literature review that compared physical discipline with alternative methods found that “conditional spanking was more strongly associated with reductions in noncompliance or antisocial behavior than 10 of 13 alternate disciplinary tactics.”³⁹ Research that properly examines the effect of conditional spanking shows it to be as good as, or better than, most other disciplinary tactics such as reasoning, verbal prohibition, or privilege removal.⁴⁰

One alternative proposed method falls in the category of “positive parenting” which limits discipline to warm and supportive guidance. However, both developmental and clinical psychology show that negative disciplinary measures are sometimes necessary.⁴¹ Children need authoritative parental guidance and clearly enforced rules of conduct because their reasoning is not yet fully developed. They do not know what will help or hurt them and may make choices based solely on their desires. Clear boundaries are necessary to protect children from impulsivity, short-sightedness, and inexperience.⁴² For example, a toddler reaching for a hot stove might be verbally encouraged not to touch the stove, or his parents might flick the child’s hand so that he knows that touching a stove can be

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very painful. Such parental discipline may not be pleasant for the child, but ultimately teaches him what is best for him and probably saves the toddler from excruciating pain later. There is even evidence that parents are increasingly resorting to medication (which may have its own range of side effects) to correct bad behaviour rather than more straightforward discipline methods.⁴³

The Swedish Example

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 countries should follow. And indeed, 64 countries have followed suit.⁴⁴

University of Manitoba professor Joan Durrant argues in *A Generation Without Smacking* (2000) that Sweden's model has succeeded in changing attitudes about corporal punishment, reducing child abuse, reducing violence by children, and allowing professionals to intervene before violence escalates.⁴⁵

However, since 1981, the rates of all assaults against minors in Sweden 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 as compared to 1981.⁴⁶ Caution must be taken with any direct causal conclusions about these statistics, as we note above. For example, these statistical changes may be based in part on changes in reporting practices and other factors. However, the consistency and magnitude of the increased rates suggests that more rigorous evaluation needs to be done to help explain these staggering increases in the years after Sweden banned physical discipline.⁴⁷

Many parents have legitimate concerns that anti-spanking laws would criminalize what they consider reasonable, helpful, and necessary disciplinary action. Defenders of Sweden's policy emphasized that parents who were caught using physical discipline would not be prosecuted, but rather taught "proper" parenting methods. But Sweden's example does not bear this out. In 2010, for example, one couple whom a Swedish court found "had a loving and caring relationship to their children," were nevertheless jailed for nine months each and ordered to pay 25,000 kronor to each of their three children who were

spanked.⁴⁸ More damaging than 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 imprisoned parents and placed with someone else.

In his book *How Children Took Power*, Swedish psychiatrist David Eberhard argues that Sweden's spanking ban has led to parents being less willing to discipline their children and make decisions for them and that kids have become the key decision-makers in families.⁴⁹ Swedish parents are increasingly reluctant to use any disciplinary consequences, undermining important disciplinary skills for defiant children.⁵⁰ Parent-led discipline is critical to instill good behavior and self-control in children at an early age so that they have improved chances of living virtuously once they leave home. For example, simply offering kids healthy eating choices does not mean they will make healthy choices as adults. However, if parents require their children to eat healthy, they are more likely to choose healthy food when they are older.⁵¹

If the state interferes in the family when abuse or neglect are not present, that intrusion also inflicts profound psychological harm on children, while undermining parental authority and potentially breaking up families.

While these examples do not directly relate to corporal discipline, they point to the need for parental authority, which has been severely undermined in Sweden. Robert Larzelere and Diana Baumrind have studied corporal discipline closely, including whether evidence from nations such as Sweden supports bans on corporal discipline. They write that “the available evidence suggests that spanking prohibitions may increase the use of verbal hostility . . . may also increase the number of parents who cannot control their children’s coercive behavior, which puts those children at risk for delinquency and crime.”⁵² Permitting mild corporal discipline may prevent other negative consequences. A study of Austrian and German parents provides evidence that those who thought mild spanking was still legal were less likely to resort to severe punishment and more likely to use mild spanking.⁵³

The Underlying Issue: The State as Parent

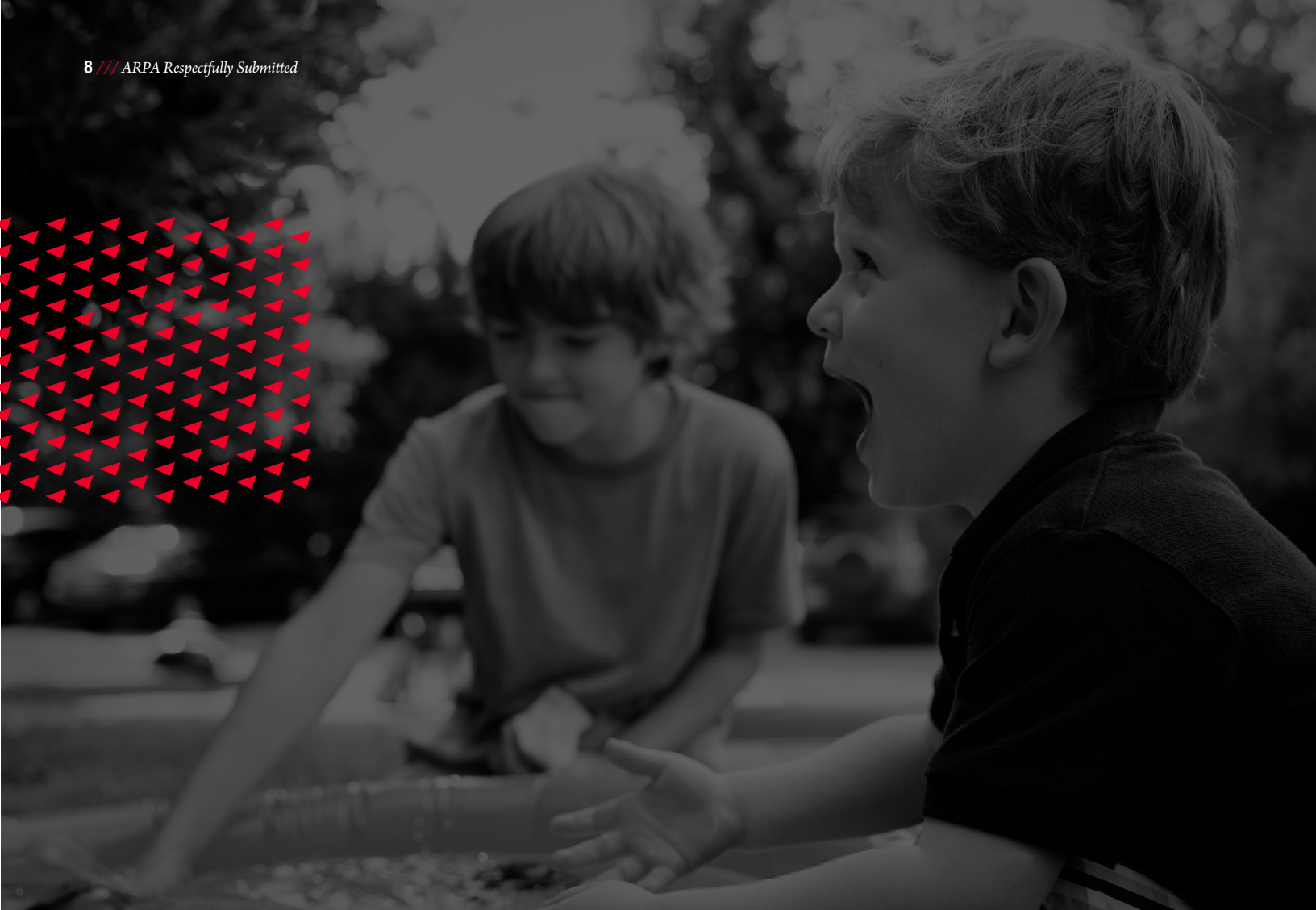
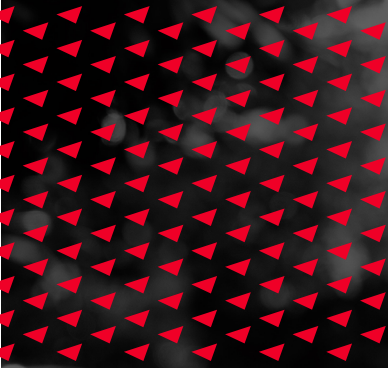
Canadian Senator Rosemary Moodie, speaking in support of repealing section 43, acknowledged parents as the “primary caretakers of their children,” but quickly added that “there are times when public institutions need to step in.”⁵⁴ The implication appears to be that the state is justified in “stepping into” the family wherever corporal discipline of any kind is used. No parent is perfect in their parenting, nor is any single parenting method or disciplinary technique perfect.

Studies over the past 15 years have highlighted the problem of parental burnout, which occurs much more in Western countries than elsewhere. This is, in part, due to increasing pressure on parents and increasing perfectionism in which “parents may feel particularly responsible for their children’s future or success, which may lead them to set high standards for themselves and to fear making mistakes. This is especially true as states are becoming increasingly involved in defining parenting standards and controlling parents.”⁵⁵ The complete absence of corporal discipline is not demonstrably better (and may be worse) than the limited use of measured corporal discipline. Canadian society currently permits a range of parenting styles so parents can raise their children in the way they believe is best for them, within reasonable limits.

If corporal discipline is criminalized, parents who choose to use mild physical discipline will also be criminalized. Is that really what we want to do as a society? As in the above example of Swedish parents whose children were removed from their home following spanking charges, the removal of section 43 in Canada would risk placing loving parents in jail and removing children from their homes. The state must not intervene in families lightly, reserving the removal of children from their parents’ care to cases where the child faces grave danger.⁵⁶ At the same time, Children’s Aid Societies in Canada are already overwhelmed with casework and a lack of foster homes. Placing more

children in the system, particularly children who ought not to be in the system, will cause further unintended consequences with child welfare across the country.

Children are not intellectually capable of understanding the world around them, nor are they capable of exercising their own rights; someone must do so on their behalf. Parents are best suited for this task, not the state. Not only do parents (usually) have a biological connection to their children, but they also have an emotional, spiritual, and relational connection with them that the state lacks. Parents know their children best. Parents are best placed to make informed decisions about raising their children. Philosophy professor Melissa Moschella writes that “preservation of the common good requires tolerating a great deal of imperfection in the exercise of parental authority, just as a great deal of imperfection in political authority should be tolerated before attempting to overthrow the government. The limits of that tolerance are situations of abuse and neglect, in which parental authority is clearly and non-controversially failing to fulfill its function . . .”⁵⁷ Thus, with the exception of criminal abuse and neglect, as currently defined in our law, the state should not interfere. If the state interferes in the family when abuse or neglect are not present, that intrusion also inflicts profound psychological harm on children, while undermining parental authority and potentially breaking up families.⁵⁸ Parental authority



does not permit parents to do whatever they wish but allows them to fulfill their obligations and responsibilities to their family, and particularly their children, in a way that they believe is best.⁵⁹

The role of the state is limited to preserving an orderly society and punishing wrongdoers (including actual child abusers), so that the other foundational institutions of society can flourish in carrying out their respective tasks. The family exists independent of the state and is its own domain within society.⁶⁰ The authority within the family is derived not from the government but from God who created and instituted the family.⁶¹ This is, in part, what the preamble to the Canadian Charter of Rights and Freedoms signifies in stating that “Canada is founded upon principles

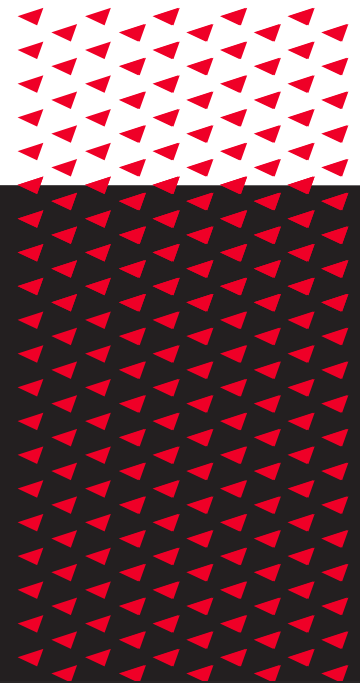
that recognize the supremacy of God and the rule of law.” This means, at the very least, that the state is not God and that the rule of law requires the state to recognize its own limits and recognize the legitimate authority of other social institutions apart from the state. The longer preamble to the Canadian Bill of Rights notes, along with the supremacy of God and the rule of law, the importance of the “position of the family in a society of free men and free institutions.”⁶² In light of this, the state ought not to intrude on the authority of the family except in cases of criminal abuse or neglect of a child.⁶³ Section 43 of the Criminal Code, as defined and upheld by the Supreme Court of Canada, helps strike an appropriate balance.

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.

Endnotes

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We know that championing our policy recommendations will take courage, dedication, and hard work. We at ARPA Canada strongly believe that doing so would be consistent with God's calling for you in a position of civil authority (Romans 13), and for promoting the well-being of our neighbours, in line with Canada's constitution and legal history. We are grateful for your service and we remember you in our prayers.

RESPECTFULLY SUBMITTED

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