

## SPANKING: DISCIPLINE OR ABUSE?

Boost Child Abuse Prevention & Intervention has joined a multitude of agencies and individuals in the effort to have Section 43 removed from the *Criminal Code of Canada*. Section 43 reads as follows:

*Every school teacher, 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.*

Sadly, on January 30, 2004, the Supreme Court of Canada upheld Section 43. This statute became law in 1892, and is based on English common law that allowed corporal punishment of husbands against wives, employers against servants, masters against apprentices, and the physical punishment of children. Corporal punishment involves the use of physical force. Over the years, changes were made to the *Criminal Code* to remove the power to inflict corporal punishment against wives, servants and apprentices, however to this day, children are the only citizens that can legally be subjected to physical punishment. Children have the right to safety and protection like any other human being, however Canadian law permits adults to use force against them.

In fact, Canada signed the United Nations *Declaration on the Rights of the Child* (ratified in 1991), which includes Article 19 stating that all measures be taken to protect children from all forms of physical or mental violence. The UN Committee has asked Canada twice to repeal Section 43 as it goes directly against this section of the *Declaration*, however it remains.

Some citizens are concerned that the rights of parents will be eroded if Section 43 is repealed. The truth is that the removal of Section 43 will give equal rights to everyone in the family. As the law does not allow anyone to use physical force to correct an adult's behaviour, the most vulnerable population, children, should have equal rights to the same protection and dignity! In the January 2004 ruling, the Supreme Court judges set down guidelines, including that children under the age of 2 and over the age of 12 should not be spanked. Does that mean that children between 3 and 11 are not entitled to the same rights and protection as those under 2 and over 12?

There is a global initiative to end the corporal punishment of children. In 2004, there were 12 countries where corporal punishment was not allowed, and there had been no increase in charges. This number has climbed, and as of November 2012, there are 34 countries that have legally protected children from all corporal punishment, including at home and in school.<sup>1</sup> Many parents have expressed concern that there will be a substantial increase in the number of charges against those who spank a child. Child protection workers and police already assess when and how to respond to concerns about the use of corporal punishment. Presently, the laying of criminal charges is low in these situations, and the expectation is that this will not change. Investigators take many factors into account when determining if charges should be laid. These include the

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<sup>1</sup> For detailed information, go to <http://www.endcorporalpunishment.org>. Information with respect to the efforts to remove Section 43 of the Canadian *Criminal Code* can be found at <http://www.repeal43.org>.

extent of any injury, and if the parent/caregiver: intended to hurt the child; shows remorse; and is willing to learn more appropriate ways of responding to children's behaviour.

If necessary, there are other sections of the law that can be interpreted to allow for physical force to protect oneself or others – Section 43 is not necessary for this purpose. Guidelines are needed to go along with the Repeal to prevent minor prosecutions, along with comprehensive public education. Education and not prosecution will protect our kids and support families.

Canadian research tells us that approximately 75% of physical abuse investigations occur in the context of inappropriately punishing a child. Contrary to the common belief that child abuse is the result of pathological behaviour, this statistic indicates that most physical abuse is the result of punishment – often the punishment has gone too far and the child is injured, even though that was not the intention (Durrant et al., 2006). Physical punishment clearly exposes children to risks, and does it not make sense to reduce risks whenever possible?

There is a great deal of work to be done to educate and support the many people in this country who are, as yet, unable to distinguish between discipline and punishment. Discipline is training and guidance that helps a child develop judgment, self-control, boundaries, self-sufficiency, socialized conduct, and protects children from danger. Physical punishment on the other hand, has the objective of inflicting pain to correct a child's behaviour. Discipline is sometimes confused with punishment, particularly by parents and caregivers who use corporal punishment in their attempts to correct and change children's behaviour.

If corporal punishment is not recognized as detrimental to children, then parents and caregivers are not receiving the support they need to raise children without the threat of physical force. Physical punishment models negative and ineffective methods of solving conflicts and problems. When children learn to behave this way they in turn behave this way toward other children in school/child care settings. Children and youth are also receiving mixed messages. Many schools/child care centres have implemented anti-bullying information, but at the same time, many children are learning from parents and caregivers that hitting is a way to try and get people to do what you want. Kids who model this behaviour and hit others at school/child care then get into trouble.

World-wide research shows that physical punishment is not effective in encouraging a lasting change in child behaviour, and there is no evidence that demonstrates positive outcomes of physical punishment. In fact, the evidence shows that corporal punishment poses a significant risk for immediate and long-term harm to children, including: trauma; defiance; increased aggression toward siblings, peers and parents; behavioural problems; developmental delays; depression; anxiety; low self-esteem; substance abuse; delinquency; abuse of one's own children; and spousal assault.<sup>2</sup> The outcomes

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<sup>2</sup> Four publications that are very helpful in summarizing the research on corporal punishment are: (1) Durrant, J.E., & Ensom, R. (2012). Physical punishment of children: lessons from 20 years of research. (2) Durrant, J.E., Ensom, R. & Coalition on Physical Punishment of Children and Youth. (2004). *Joint Statement on Physical Punishment of Children and Youth*. (3) Durrant, J.E., Ensom, R. & Coalition on Physical Punishment of Children and Youth. (2006). *Physical Punishment And Children's Health*. (4) Gershoff, E.T. (2008). *Report on Physical Punishment in the United States: What Research Tells Us About Its Effects on Children*.

grow worse with increased intensity or frequency of punishment. If Section 43 is not removed from the Criminal Code, it has the potential to create more problems for children.

As expressed in an article by Marvin Bernstein (2004):

*...research has clearly established physical punishment as a risk factor for harm. By way of analogy, there are many adults who were driven in cars without car seats or seatbelts as children; that they survived without injury, however, does not mean this is a safe practice or that we should not have laws requiring car seats for small children (p. 1).*

Hitting at the time may seem easier, but does not get at the underlying issue. Therefore, it is likely that hitting will continue to be used by adults, and will often escalate in an effort to try and change a child's behaviour. Most children respond to consistent and fair discipline. If a child does not, then it may be time to ask for help. There are many sources of parenting information in communities, including public health and family physicians.

Despite the vast knowledge of the potential negative impact of spanking on children, why do so many people continue to defend it? The following quote from Kazdin may be helpful in the course of the discussion:

*...But parents keep on hitting. Why? The key is corporal punishment's temporary effectiveness in stopping a behaviour. It does work – for a moment, anyway. The direct experience of that momentary pause in misbehaviour has a powerful effect, conditioning the parent to hit again next time to achieve that jolt of fleeting success and blinding the parent to the long-term failure of hitting to improve behaviour. The research consistently shows that unwanted behaviour will return at the same rate as before. But parents believe that corporal punishment works, and they are further encouraged in that belief by feeling that they have a right and even a duty to punish as harshly as necessary (2008, p. 1).*

The use of physical punishment can negatively affect the longer term goal of developing and maintaining a parent-child relationship with open communication and trust, both of which are important to keep kids safe; children and youth are unlikely to confide in anyone whom they think will hurt them. It is often said by parents that their children respect them because of the physical punishment received – the reality is that it is more likely that their children fear them, not respect them. If our children and youth are secure in knowing that they will not be physically or emotionally hurt by their parents/caregivers for their behaviour, then chances are they will be more open with us about what is going on in their lives. No matter what, a caregiver can always find a solution to a problem with a child/youth that does not involve physical punishment.

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