

# Putting an end to physical punishment

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**T**he right to physical integrity, to protection from all forms of inter-personal violence, is a basic human right. It is a right which most adults take for granted, and which in most societies is built into the law and reflected in prevailing social attitudes. While violence against women within the family remains common in many countries and cultures, there are few in which it is still legally accepted: increasingly it is actively condemned through legal action, information and education programs, and by influential statements from politicians and others.

But in very few societies, has the right to physical integrity been extended to children. In almost every country of the world, high levels of violence to children within the family (and in institutions too) remain legally sanctioned and socially approved. While child abuse, both physical and sexual, has been recognised as a serious problem affecting children in all societies, the definition of child abuse in common usage and in law, policy and practice, tends to condone a high level of physical and mental violence to children.

The commonest form of violence experienced by children in almost every country is physical punishment in their homes. In many countries,

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physical punishment is also commonly used in other child care settings, in schools and in the penal system. Slapping, smacking, beating, scratching, pulling hair, pinching, forcing children to stay in uncomfortable or painful positions, or to hold weights: there are many forms of physical punishment. Belts, sticks, shoes and other implements are frequently used by parents and others to hit children, and even these extreme assaults are condoned by the law in many countries (in the UK, for example, courts in the last year have acquitted parents who admitted belting children as young as five, causing severe bruising).

The major reason for the illogical attitudes towards violence directed at children, is that this is a highly personal issue. Whether or not we experienced physical punishment or abuse as children (and most of us did), whether or not we have hit our own growing children, we have all been conditioned by living in a society which accepts deliberately hurting and humiliating children as a legitimate way of punishing or treating them. Our experiences as children and as parents get in the way of logical and 'professional' consideration of the arguments and the evidence. We do not want to think badly



Adults still go to great lengths to defend these forms of violence to children, in stark contrast to the generally accepted attitude towards all other forms of inter-personal violence. They do not recognise the deep hypocrisy of defending physical punishment while telling children they must not hit each other - that's bullying, and they must certainly not hit or humiliate adults.

of our parents, or of ourselves. As Alice Miller has written, if this was simply an intellectual matter, we would have stopped hurting and humiliating children decades ago (Miller 1987).

Our use of language reflects the culture and gives away our attitudes to hurting children: 'a good hiding', 'six of the best', 'a healthy smack' etc.

The use of special words like 'smacking' to describe violence when it is directed at children, makes us more comfortable with the action.

## Prevalence of physical punishment

What do we know of the current prevalence of physical punishment and humiliation of children? In some countries, including the USA, Australia, New Zealand and the UK, there has been substantial research which, until very recently, showed around 70-80 per cent of parents committed to using physical punishment. In 1985, for example, two thirds of a large sample of British mothers admitted that they were already smacking their baby before the age of one, and the same researchers had earlier found that almost a quarter of seven year-olds had already been hit with an implement (stick or belt), and another 53 per cent had been threatened with an implement. It seems clear that, historically and geographically, physical punishment tends to follow enslavement, colonisation, military occupation and certain religious teaching. In cultures not subject to such influences, notably hunter-gatherer societies, the use of interpersonal violence or pain in child-rearing is unusual.

Routine violence and deliberate humiliation of children in the family remains unrecognised and unresearched in many countries. In countries where violent child-rearing has not been challenged by legal reform and education programs, interview research invariably shows high levels of physical punishment of children, including babies. There are plenty of Australian studies.

## The dangers of physical punishment

I have dwelt first on the basic rights argument for urgent action on this issue, and that should be a sufficient argument in itself, but of course there are other compelling reasons for seeking to end physical punishment.

Over the last few decades, alongside increasing recognition of the rights of the child, has come an accumulation of evidence concerning the dangers of physical punishment and humiliation of growing children, and the potential for reducing levels of all kinds of violence in human societies

through the encouragement of positive, non-violent forms of child-rearing and education.

## Links with development of violent attitudes/actions

There is a clear consensus, from both clinical observations and research literature, that violence is a learned response: physical punishment does not prevent aggressive behaviour, but actually causes it. Studies of the determinant factors which lead to bullying at school, and to later domestic violence, child abuse and violent crime, invariably cite physical punishment and/or other forms of deliberate humiliation of children. Many other studies confirm psychological and sociological dangers of physical punishment. The research evidence has been brought together in books published in various continents. In addition, major governmental commissions studying the causes of all forms of inter-personal violence in Germany, Australia and the USA have sifted the evidence; in each case they have concluded that ending physical punishment of children is an essential priority to break the inter-generational transmission of violent attitudes and actions.

In Australia, the National Committee on Violence concluded in 1989:

The greatest chance we have to prevent violence in society is to raise children who reject violence as a method of problem-solving, who believe in the right of the individual to grow in a safe environment.

(1990)

## Retributive policies

I do not know to what extent the Australian press reflects the depressing direction in which government policies on children and crime are taking us in the UK (and not only in the UK of course). The tragic murder of a two year-old by two 10 year-olds in Liverpool in February 1993, seemed to focus an attempt to blame most adult ills, including in particular, violence and crime, on children. Scapegoating of children is not a new phenomenon, but in this case, the popular press and some government ministers seemed to be conspiring: the two small murderers were denounced as 'the embodiment of evil'; 'freaks of nature: the faces of normal boys but they have hearts of unparalleled evil'. Original sin - back again as the prevailing basis for government

policy on children, and riding on the tide of apparent public opinion, our Home Secretary announced plans to lock up many more, and younger, children, despite universal advice, based on hard research, that it would make the children, and the problem, much worse. Retribution is still the major factor in our dealings with young offenders. I go into this because I think the continuing social and legal acceptance of adults - parents and some other carers - deliberately hurting and humiliating children is the root cause of the so pervasive counter-productive punitive attitudes. Unless we can get beyond them, I see the UK following the US into a spiral of violence breeding violence, locking up more and more children and adults, life sentences meaning life sentences and so on. It is a crucial period, and on the whole I am still optimistic. I think you are facing similar problems in some parts of Australia.

## 'Accidental' injury

Wherever the use of physical punishment, in the home and in institutions, has been studied, one finds evidence of common serious injury and sometimes death arising from even minor forms of physical punishment. Dodged or misplaced blows cause falls, resulting in head injuries; boxing ears can burst eardrums; shaking babies and young children can cause brain damage etc.

## Escalation to child abuse

Physical abuse of children is almost invariably punishment. When perpetrators are questioned, in the vast majority of cases they either justify the abuse as within their right to administer 'reasonable chastisement', or explain it as punishment which went 'a bit too far'. There is no simple dividing line between 'ordinary' physical punishment and abuse; because of the ineffectiveness of physical punishment in modifying behaviour, there is an in-built tendency for it to escalate. In 1985, the Committee of Ministers of the Council of Europe came to a similar conclusion in drafting a recommendation on reducing family violence:

It is the very assumption that corporal punishment of children is legitimate that opens the way to all kinds of excesses and makes the traces or symptoms of such punishment acceptable to third parties.

(1985)

Perhaps most important, hitting and humiliating children teaches nothing positive, nothing about the behaviour we want from our children. In fact it is a lesson in bad behaviour.

## Worldwide progress to end physical punishment

Most recently, recognition of the moral obligation to uphold the child's right to physical integrity, and acceptance of the evidence of the dangers to the child and to society of ignoring the issue, have led to significant progress towards ending physical punishment, in Europe and elsewhere.

Advocating full and explicit legal reform to give children, within the family and elsewhere, the same protection from assault as adults tend to take for granted, should no longer be regarded as controversial. It is significant that wherever statutory offices, ombudspersons or commissioners, have been appointed to represent children's interests, advocating an end to physical punishment has been high on the agenda - eg, the Norwegian Children's Ombudsman, the Swedish Committee on Children's Rights, the New Zealand Commissioner for Children, Australian Children's Interests Bureau, German Kinder-Kommission etc.

One significant sign of growing recognition of the issue, was the inclusion of a table of industrialised countries in UNICEF's report, *The Progress of Nations 1994*, showing where physical punishment in the home, in schools and in penal systems remains legal. I understand it got some publicity in Australia.

It appears that five countries - all European - have so far formally prohibited all physical punishment of children, by parents and other carers (Sweden, 1979; Finland, 1984; Denmark, 1986; Norway, 1987; Austria, 1989). Research following legal reforms in the Scandinavian countries has documented entirely positive effects - for example, in Sweden:

The law has dramatically reduced physical punishment and commitment to it. It has broken the inter-generational transmission of the practice. It has helped to reduce serious child-battering... Professionals in particular have welcomed having a 'clear line' to transmit to parents. (Haeuser 1991)

A very comprehensive education program accompanied the new law in Sweden, in the media, in the education system, in ante-natal classes etc.

The Council of Europe has adopted two recommendations urging member countries to review their law on punishment and consider full prohibition (Recommendations R85/4 and R90/2). Germany is committed to prohibition. In Canada, the federal Government is reviewing the law and considering prohibition. In Chile, legal reforms to reduce ill-treatment in the family are in progress. In Ireland, the Governmental Irish Law Reform Commission has proposed that full prohibition of physical punishment should follow a government-sponsored education campaign. In New Zealand, the Commissioner for Children has proposed repeal of the law sanctioning parental physical punishment and launched an education campaign. In Poland, a governmental body reviewing constitutional changes has proposed legal reform. In Switzerland, a governmental committee on child abuse has proposed explicit prohibition.

The recent Second African Conference on Child Abuse and Neglect brought together more than 600 participants from 14 African countries, and unanimously adopted a resolution supporting legal and educational moves to eliminate physical punishment of African children.

Also a Charter adopted by children at the Children's Summit of South Africa in June 1992 stated:

All children have the right to freedom from corporal punishment at school, from the police and in prisons, and in the home.

In the UK, the EPOCH campaign was launched in 1989. At that time, no UK organisation had a public policy against parental physical punishment. In 1987, the UK had become the last European country to end physical punishment in its state schools (parents can still pay to have their children beaten in some private schools!) We have made some progress: there is now more or less a professional consensus in favour of legal reform and education to end all physical punishment. More than 50 major organisations, child welfare, child protection, professional - paediatricians, social workers etc - have joined the coalition. It has been an interesting, often depressing process. Where committees discuss

the issue, it invariably illustrates what a deeply personal issue this is. Often it takes some time and two or three meetings to get the personal dimension out of the way and allow a clear understanding of the gross hypocrisy, the disrespect, the illogicality and the inhumanity of continuing to defend, overtly or covertly, hitting and humiliating small people.



Outside the family home, the UK has made quite fast progress following the partial school reform. Our 1989 *Children Act*, which is by no means a charter for children's rights but does make some advances, outlaws physical punishment in all child care institutions, in foster-care, and in all forms of daycare including childminding - that is someone looking after your child in their home. But some of this prohibition is only in guidance not in law, and a recent High Court case found that the guidance was not sufficient to allow a local authority to refuse to register a childminder because she refused to guarantee not to smack a four year-old, whose mother approved of smacking. The case was more about the inadequacies of government guidance than the rights and wrongs of smacking, but of course the popular papers took it as a 'Victory for Common Sense', hailing the childminder as a martyr, rather than the real 4 year-old martyr. Unfortunately the first reaction from the nearest thing Britain has to a Minister for Children (not very near) echoed that view. So - a little set-back, but even the Government has boasted of its policy that

'outside the family home, there is no place for physical punishment in the child care environment'.

Inside the home, the law still allows parents and other informal carers to use 'reasonable chastisement'. As I mentioned earlier, over the last year there have been a number of cases in which parents who have beaten their children with sticks, belts and electric flexes, causing heavy bruising, have been prosecuted for assault, but acquitted by the courts on the grounds that this is 'reasonable'. In one case the judge stated: 'The world is going potty if a parent cannot slipper a child'.

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### **The UN Convention and the child's right to physical integrity**

The 1989 UN Convention on the Rights of the Child provides a new context for making progress worldwide. It has been ratified by over 160 countries now, including, of course, Australia and the UK. The Convention provides international authority for insisting on the rights of all children to physical and personal integrity - to protection from 'all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse' while in the care of parents and others. This comprehensive protection, outlined in Article 19, complements the insistence in Article 37 that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. In addition, the Convention emphasises in Article 2, that the rights within it must be available to all children without discrimination; thus punishments or treatment involving mental or physi-

cal violence cannot be justified, as they often are, on grounds of culture, religion, race or tradition.

The Convention requires that states which have ratified, report within two years and then every five years to a UN Committee on the Rights of the Child, a committee of 10 experts meeting in Geneva. This is already paying welcome attention to the issue of physical abuse of children in its scrutiny of initial reports from States Parties. The Official Report of the Committee's fourth session (CRC/C/20 25 October 1993) indicated that:

The Committee recognised the importance of the question of corporal punishment in improving the system of promotion and protection of the rights of the child and decided to continue to devote attention to it in the process of examining States Parties reports.

In discussions with representatives of States Parties concerning their initial reports, members of the Committee have several times emphasised that corporal punishment is not compatible with the Convention (eg. in consideration of reports from Sudan, Chile, Burkino Faso, Namibia). The provisions of Article 19:

...were intended to prompt those in authority in each country to find the most effective way in their own societies to break cycles of violence that were often perpetuated from generation to generation under the cover of tradition and custom.

(CRC/C/SR.136 Para 41)

The UK Government's initial report to the Committee - a deeply complacent document and hugely dishonest, at least by omission - includes the statement that it is the government's view that:

Article 19 has to be read in conjunction with Article 5 which obliges States to respect a parent's responsibilities to provide appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention. The UK Government's view is that appropriate direction and guidance includes the administration, by the parent, of reasonable and moderate physical chastisement to a child. The single most important responsibility for ensuring a child grows up to abide by the law rests with the parents. A firm but fair approach to discipline is an important part of this.

Well... I have already outlined what British courts currently believe to be 'reasonable' chastisement.

I meet a very wide range of adult excuses for not consistently upholding children's right to physical integrity. Some sound at first more respectable than others perhaps. For example...

*'Many families are suffering increased levels of poverty, homelessness, overcrowding and stress. We should give priority to these structural issues before we try to change these commonly accepted forms of discipline.'*

There is much wrong with that argument. First it presents a stereotype that 'poor' parents are especially prone to hit and humiliate their children, which is not particularly borne out by research. Secondly, it implies that discouraging physical punishment and humiliation may increase, rather than reduce stress. But most important, it ignores the children's rights imperative for acting now. Why should children wait while we try to create a social Utopia that looks further off than ever? Can you imagine anyone raising a similar excuse for avoiding challenging domestic violence against women; let's wait for full employment for men... This issue is not in competition with challenging poverty, inequalities, homelessness etc.

Another excuse:

*'By focusing too narrowly on physical punishment, there is a danger of encouraging other more damaging ways of abusing children - emotional abuse and so on.'*

But EPOCH has been careful to include deliberate humiliation alongside physical punishment as harmful and counter-productive, and to have a wide definition of physical punishment which includes dangerous restriction of liberty of children, when time out leads to locking children in rooms or cupboards. In some countries where there is an explicit ban on physical punishment, the legislation bars humiliation too. Of course the focus of the campaign is on positive discipline, above all on ways of encouraging acceptable behaviour which also encourage the development of self-discipline. But as I have indicated, there is a particular injustice in the current legality of physical punishment, in contrast to all other inter-personal violence.

These may be important arguments to go through, but all too often they do seem like diversionary tactics, arising from individuals' unwillingness to challenge their conditioning.

## Significance of ending physical punishment

Now to move on to the significance of ending physical punishment and deliberate humiliation of children. It is first and foremost a fundamental rights issue; we adults take for granted our right to physical integrity. Children, smaller and more vulnerable, if anything have a right to more rather than less protection. Promoting this right is a highly symbolic challenge to outdated notions of children as the property of their parents, identical to the challenging of once-acceptable violence to women by their husbands. If we want to make children a higher political priority, we have to improve their status. The degree of protection of a person's physical integrity is absolutely crucial to their status. It is surely clear that in any common sense country, concern for children and for the environment would have the highest political priority as a demonstration of commitment to the future and the quality of life in the future.

We have come increasingly to understand the threatening effects of people's irresponsible attitudes and actions towards the environment. We are beginning, but in most countries only just beginning, to fully understand the effects of mishandling and humiliating children. We know that children are far more sinned against by adults than sinning, and that violence by children almost invariably has its roots in violence and humiliation directed at them by adults. Alice Miller and others have tried to underline this. We cannot hope to seriously challenge escalating violence of all kinds around the world - in the family, in society, inter-nationally - unless we challenge and end the passing on of the message from one generation to the next that hitting is a useful way of sorting out conflicts.

We cannot hope to seriously challenge child abuse while we accept adults' right to deliberately hurt and humiliate children. The current definition of child abuse, both in common usage and in legal systems around the world, is part of the problem, because the definition condones quite a high level of physical and mental violence to children - reasonable chastisement etc. Look at the parallel issue of violence to women; there is no similar concept to child abuse, leaving

acceptable some arbitrary level of violence to wives and partners - little smacks and slaps and so on.

We need a professional consensus against hitting and humiliating children. With it, there is some hope that the culture could change quite quickly. Those involved in child welfare, children's law and child protection have a particular responsibility to make sure that definitions of child abuse, and a pre-occupation with extreme forms of physical, psychological and sexual violence to children, do not obscure the child's right to physical integrity. That right must be unequivocally acknowledged in our laws, in public attitudes, and in our individual behaviour towards children with whom we live or work.

We do not need more evidence, or more research. What we need is an end to individual and collective hypocrisy in our attitudes to violence and children, a recognition of the conditioning that has allowed us for so long to justify hurting and humiliating them. And action - individual and collective - to create a climate in which legal reform to give children the same protection that the rest of us take for granted becomes a non-controversial imperative. ♦

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