

Parental Discipline

The Case for Keeping Section 43

ANDREA MROZEK & ANNA BUHRMANN
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Andrea Mrozek | Program Director of Cardus Family

Andrea Mrozek is Program Director of Cardus Family. Prior to joining Cardus, she was the Executive Director at the Institute of Marriage and Family Canada where she wrote and spoke about marriage, child care, women's issues and how family life affects the economy, and vice versa. She is the author of a number of influential pieces including *Private Choices, Public Costs: How Failing Families Cost Us All* about the national public costs of family breakdown, and *The Cost of a Free Lunch: The Real Costs of the Pascal Early Learning Plan for Ontario*.

Her opinion pieces have appeared in the *National Post*, *Globe and Mail*, *Vancouver Sun*, *Calgary Herald*, *Montreal Gazette*, *Toronto Sun* and the *Ottawa Citizen*, among others, and she's frequently a guest on TV and radio shows across Canada.

Born in Toronto, Andrea has a Master of Arts in History from the University of Toronto.

Anna Buhrmann | Intern at Cardus

Anna Buhrmann was formerly an intern at Cardus. Born and raised in Ottawa, she enjoys swimming, running, and music. She is currently studying in France and will return to attend McMaster University in Fall 2017 for the Bachelor of Arts and Science program.

HAMILTON OFFICE

185 Young St.

Main Floor

Hamilton, ON

L8N 1V9

(888)339-8866 Canada Only

(905)528-8866 Worldwide

(905)528-9433 Fax

info@cardus.ca

www.cardus.ca

OTTAWA OFFICE

45 Rideau St.

7th Floor

Ottawa, ON

K1N 5W8

(613)241-4500

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EXECUTIVE SUMMARY

- Bill S-206 is a bill originating in the Senate calling for an outright ban on the use of reasonable force for parents and teachers.
- Bill S-206 calls for the repeal of section 43 of the criminal code—section 43 protects parents and teachers from criminal sanction if they need to use reasonable force with children in their care.
- The Supreme Court of Canada ruled in 2004 that section 43 is constitutional.
- Of the four published scientific overviews of child outcomes of spanking, only Elizabeth Gershoff and Andrew Grogan-Kaylor support the banning of use of reasonable force.¹ Their meta-analysis relies on unadjusted correlations, a statistic that is likely to be biased. The other three overviews concluded:
 - “Exposure to corporal punishment does not substantially increase the risk to youth.”²
 - “The impact of spanking . . . on the negative outcomes . . . are minimal.”³
 - “The results . . . favored *conditional* spanking over 10 of 13 alternative disciplinary tactics. . . . Only *overly severe or predominant* use of physical punishment compared unfavorably with alternative disciplinary tactics.”⁴
- Sweden has experienced alarming increases in criminal assaults since they banned spanking in 1979.
 - Swedish physical child abuses increased between 1981 and 2010 by twenty-one times.⁵
 - Assaults by minors on other minors occur more than twenty-three times as often as before the ban.⁶
- The Truth and Reconciliation Commission recommended repealing section 43 based on the systemic abuse of First Nations children, who were forcibly taken from their parents and placed into residential schools, where physical (as well as emotional and sexual) abuse was levied.
 - This was abuse and would clearly be illegal even with section 43.
 - This abuse stemmed from interference with parents, just as repealing section 43 likewise interferes in the lives of parents.
- Children have been removed from their families unnecessarily in countries where a ban on use of force has been implemented.⁷
- The removal of section 43 will put good parents at risk of criminal sanction and will not help protect children from abuse.

WHAT IS BILL S-206?

Bill S-206, a bill currently at second reading in the Senate, is “an Act to amend the Criminal Code (protection of children against standard child-rearing violence).” It calls for the repeal of section 43 of the Criminal Code, which currently reads as follows:

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.

Section 43 allows parents and teachers to use reasonable force with children and thereby protects those groups from criminal sanction.

In 2004, a challenge to section 43 by the Canadian Foundation for Youth, Children, and Law reached the Supreme Court. Six out of nine Supreme Court judges voted to uphold the law as constitutional and in accordance with the Charter. The ruling introduced additional guidelines to clarify and limit the allowance for corporal punishment.⁸

S-206 is originating in the Senate, where it had first reading on December 8, 2015. Senator Céline Hervieux-Payette brought it forward and subsequently retired. So Senator Murray Sinclair, former Chair of the Truth and Reconciliation Commission, has now picked up the torch.

The Truth and Reconciliation Commission recommended repealing section 43, the result of abuse inflicted on First Nations children in the residential schools. These children were forcibly removed from the care of their parents and sent to residential schools where they not only received sub-standard education, but were also subjected to physical, emotional, and sexual abuse. Comparing residential school abuse with any aspect of parental discipline in Canada today is a comparison of apples and oranges for many reasons.

First of all, the abuse started with the forcible separation of children from their families. There is legitimate concern that separation of good parents from their children could be one outcome of repealing section 43 of the criminal code.⁹ Social services tend to be overburdened as it is, so increasing the caseload by failing to identify that the appropriate use of reasonable force is not abuse would only add to it.

Further, repealing section 43 appears to be a solution in search of a problem. We do not have evidence that parents are abusing section 43 as it stands. We have better evidence that parents aren’t using reasonable force at all. From a 2015 Pew research poll we learn that “spanking is the least commonly used method of discipline—just 4% of parents say they do it often. But one-in-six parents say they spank their children at least some of the time as a way to discipline them.” Just because something is declining in popularity does not make it violence or abuse per se.

Comparing residential school abuse with any aspect of parental discipline in Canada today is a comparison of apples and oranges for many reasons.

On what grounds is the Truth and Reconciliation Commission making this recommendation? It’s difficult to say, given that corporal punishment has not been used in schools for some time. There is no comparison to be made between the abuse in residential schools and parenting in 2017.

WHAT DOES THE RESEARCH SAY?

Robert Larzelere, Endowed Professor of Parenting, Oklahoma State University, has been studying child discipline since the 1980s and is the author of fifty publications on parental discipline.

While advocates for an outright ban on reasonable force point to negative outcomes for children, Larzelere says that most studies used to advocate for this kind of ban are flawed for a couple of reasons. One is that the studies fail to distinguish between spanking used appropriately and abuse. Another is that they confuse causation and correlation.

Larzelere writes: “Even college freshmen learn that correlation does not prove causation, yet 100% of the evidence against spanking in this latest overview is based on correlations. Worse, most of their evidence is based on ‘cross-sectional’ correlations, i.e., correlations between disciplinary spanking and child behaviors during the same time period, *regardless which occurred first*.”¹⁰

A 2016 often-cited meta-analysis¹¹ examining fifty years of research on spanking released by Elizabeth Gershoff from the University of Texas at Austin and Andrew Grogan-Kaylor from the University of Michigan drew this conclusion:

The more children are spanked, the more likely they are to defy their parents and to experience increased antisocial behavior, aggression, mental health problems and cognitive difficulties.

Larzelere identifies flaws in this meta-analysis. He explains:

Cross-sectional correlations only consider data collected during one overlapping time period without considering the previous state of the research participants. For example, cross-sectional correlations could be interpreted to show that an effective chemotherapy regimen caused a group of patients to develop cancer if the researcher did not distinguish whether the cancer occurred before, during, or after the chemotherapy. This is the kind of flawed correlational evidence contained in 55% of the studies that Drs. Gershoff and Grogan-Kaylor considered relevant for their meta-analysis.

He goes on to ask: “Which came first, the spanking or the aggressive behavior? Did the aggression occur first and elicit more spanking from the parents, or did the spanking occur before the aggression? One cannot tell from cross-sectional correlations.”¹²

Advocates for a ban on parental use of reasonable force point to negative outcomes for children in the research, but studies showing this have at least two flaws: they fail to distinguish between reasonable force and abuse, and they confuse causation and correlation.

INTERNATIONAL EXAMPLE

In Sweden, where use of reasonable force has been banned since 1979, “criminal assaults by and against minors have sky-rocketed in Swedish criminal statistics.”¹³ Most alarming is the increase in child physical abuse for children under seven—this went up twenty-one times.¹⁴ And minor-against-minor assaults occur today more than twenty-three times as often as just after the ban.¹⁵

While there may be several contributing factors to this exponential increase, it would be unreasonable to think that there was no connection whatsoever to parental discipline. It should be stated that at this time, Swedish parents not only ceased use of spanking but also became less effective in their discipline of children in general.

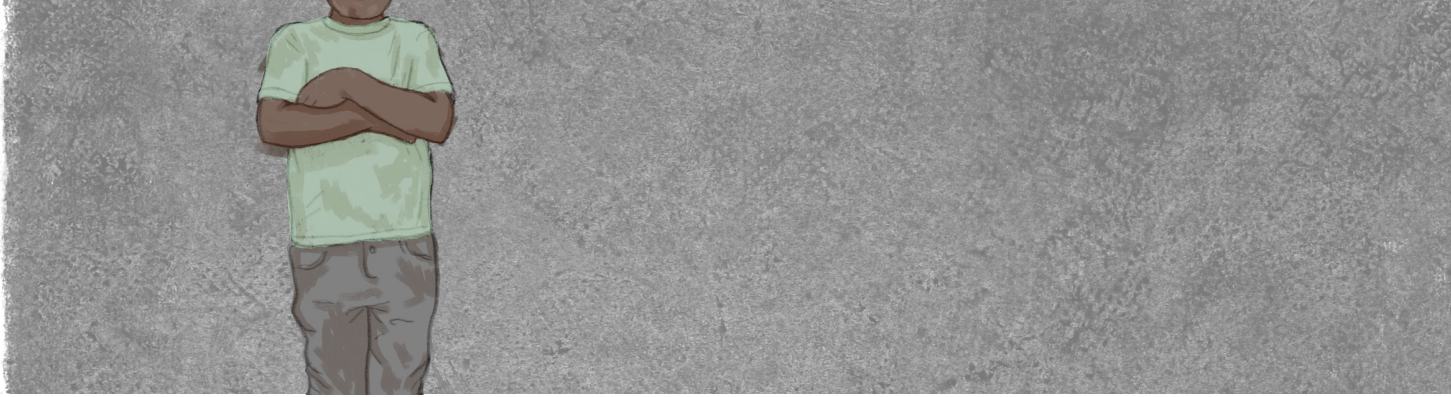
Diana Baumrind, a developmental psychologist known for her research on parenting styles, explains why abuse might rise with outright bans: “The available evidence suggests that spanking prohibitions may increase the use of verbal hostility, which has been shown to be one of the most detrimental forms of parental discipline, with more detrimental effects than even physical child abuse in several studies. Spanking prohibitions 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.”¹⁶

“The available evidence suggests that spanking prohibitions may increase the use of verbal hostility, which has been shown to be one of the most detrimental forms of parental discipline, with more detrimental effects than even physical child abuse in several studies.”

**— Diana Baumrind,
developmental psychologist**

Criminalizing traditional methods of child discipline undermines some parents’ confidence in using any form of discipline, leading one parenting expert, Marion Forgatch, to write that she considers spanking bans harmful because of “the disempowerment of parents and mistaken notion that they can’t set any negative sanctions for problematic behaviour.”¹⁷ Importantly, Forgatch had been in favour of spanking bans when Norway hired her team to train therapists throughout Norway to educate parents on how to discipline children more effectively. It was during this process of educating parents that she came to the conclusions quoted above.

Kevin Leman, an American author of several parenting books, is in favour of the limited use of reasonable force with young children. As a parent, he used this form of discipline eight times over the course of raising five children. He, and others like him, indicate that the frequent use of spanking may indicate a problem within the parent-child relationship, as with the overuse of any form of discipline. Those in favour of the limited use of reasonable force do indeed mean limited, and are against not only abuse but also the overly frequent use of reasonable force.



CONCLUSION

Today fewer parents are using reasonable force in disciplining their children. Parents remain conflicted over how to discipline their children, and solutions can often be difficult. Any form of child discipline can be taken to a criminal end—after all, time-outs left too long are neglect and abandonment. Neither does this piece even begin to address the fact that for some parenting experts, use of punishments such as time-outs are thought to be detrimental to building attachment bonds.

Parents struggling to cope with defiant young children, at danger of hurting themselves, who use one or two swats on the bottom should know there is no compelling research to suggest this is harmful.¹⁸ Parents need to be able to decide how they are going to discipline their children, and this may not include the use of reasonable force, but it may.

The main problem of repealing section 43 is the use of state coercion to tell parents how to parent. Senator David Plett, who opposes repealing section 43, says this: “Repealing section 43 of the Criminal Code goes beyond taking away a reasonable, responsible parent’s ability to spank; it takes away their ability to parent.”

Ultimately, this is why repealing section 43 will do more harm than good, according to most objective evaluations of the research to date.

ENDNOTES

1 Elizabeth T. Gershoff and Andrew Grogan-Kaylor, “Spanking and Child Outcomes: Old Controversies and New Meta-analyses,” *Journal of Family Psychology* 30 (2016): 453–69.

2 E. O. Paolucci and C. Violato, “A Meta-analysis of the Published Research on the Affective, Cognitive, and Behavioral Effects of Corporal Punishment,” *Journal of Psychology* 138 (2004): 197–221. doi: 10.3200/JRLP.138.3.197–222.

3 C. J. Ferguson, “Spanking, Corporal Punishment and Negative Long-Term Outcomes: A Meta-analytic Review of Longitudinal Studies,” *Clinical Psychology Review* 33 (2013): 196–208. doi: 10.1016/j.cpr.2012.11.002.

4 R. E. Larzelere and B. R. Kuhn, “Comparing Child Outcomes of Physical Punishment and Alternative Disciplinary Tactics: A Meta-analysis,” *Clinical Child and Family Psychology Review* 8 (2005): 1–37. doi: 10.1007/s10567-005-2340-z.

5 R. E. Larzelere and B. Johnson, “Evaluation of the Effects of Sweden’s Spanking Ban on Physical Child Abuse Rates: A Literature Review,” *Psychological Reports* 85 (1999): 381–392. doi: 10.2466/PRO.85.6.381–392.

6 R. E. Larzelere, T. Swindle, and B. R. Johnson, “Swedish Trends in Criminal Assaults Against Minors Since Banning Spanking, 1981–2010,” *International Journal of Criminology and Sociology* 2 (2013): 129–37. doi: 10.6000/1929-4409.2013.02.13.

Joan Durrant, associate professor of family social sciences in the Faculty of Human Ecology at the University of Manitoba, claims that these earlier increases occurred because Swedes report more minor violations than before. To test that, Larzelere et al. compared the increase in *attempted* rapes of minors vs. *completed* rapes of minors. From 1981 to 2010, attempted rapes of children increased less than three times as often (24 to 68), whereas completed rapes of children occurred 73 times as often in 2010 as in 1981 (up from 24 to 1,762) (ibid.).

7 In one Norwegian case, five children were taken from their parents. Spanking appears to be part of the reason. “Norwegian childcare experts have raised red flags about the Barnevernet. Last year, before officials took the Bodnarius’ children, 170 psychologists, social workers, and other professionals signed a public letter to officials saying the system needs reform. “Children are removed from the home on very weak evidence characterized by speculative interpretations,” the letter said. “Too often we see that biological parents, who do not have all the world’s resources behind them, stand no chance against a big and powerful public apparatus. We see a tendency for decisions based on incomplete observation basis and tendentious interpretations.” John Dryer, “Norway Is Taking Children From Their Parents and Sparking an Outcry,” *Vice News*, April 15, 2016, <https://news.vice.com/article/norway-is-taking-children-from-their-parents-and-sparking-an-outcry>.

In New Zealand, there are several cases of children removed from loving families. The following link, from Family First New Zealand, contains examples of how social services can become intrusively and unnecessarily involved. <https://www.familyfirst.org.nz/research/smacking-cases/>.

- 8 Section 43 Allows for corrective force that is “transitory and trifling,” Canadian Foundation for Children, Youth and the Law v. Canada, [2004] 1 S.C.R. 76, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2115/index.do>
- 9 See note 7.
- 10 R. E. Larzelere and D. A. Trumbull, “Research on Disciplinary Spanking Is Misleading,” American College of Pediatricians, January 2017, <https://www.acped.org/the-college-speaks/position-statements/parenting-issues/corporal-punishment-a-scientific-review-of-its-use-in-discipline/research-on-disciplinary-spanking-is-misleading>.
- 11 Gershoff and Grogan-Kaylor “Spanking and Child Outcomes,” 453–69.
- 12 Larzelere and Trumbull, “Research on Disciplinary Spanking Is Misleading.”
- 13 Larzelere Swindle, and Johnson, “Swedish Trends in Criminal Assaults,” 129–37.
- 14 Ibid.
- 15 See note 6.
- 16 D. Baumrind and R. E. Larzelere, “Are Spanking Injunctions Scientifically Supported?,” *Law and Contemporary Problems* 73, no. 2 (2010): 57–87.
- 17 Personal email communication with Robert Larzelere, January 2017.
- 18 There is some research to suggest it is beneficial. Using two swats to enforce cooperation with time-out was prescribed by psychologists for defiance until the 1990s. M. W. Roberts and S. W. Powers, “Adjusting Chair Timeout Enforcement Procedures for Oppositional Children,” *Behavior Therapy* 21 (1990): 257–71.

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