

Consultation on the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

Tystiolaeth i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)	Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill
CADRP-559	CADRP-559

About you

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Role: Professor

1 The Bill's general principles

1.1 Do you support the principles of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

— No

1.2 Please outline your reasons for your answer to question 1.1

(we would be grateful if you could keep your answer to around 1000 words)

Because the proposed bill will affect the future of all children in Wales, it is important to consider the full range of scientific evidence about smacking, as was done by the Canadian court system in *Canadian Foundation for Children Youth and the Law v. Canada* from 1999 to 2004.¹ Their court decisions at all three levels led Canada to update the legal limits of "reasonable" physical punishment rather than ban all smacking. The subsequent trends in youth outcomes and parenting methods there have been more favorable than trends in countries with mandatory smacking bans.

I have been recognized as a scientific expert on smacking and alternative disciplinary responses longer than anyone else still alive. For example, I served as one of the seven invited presenters at the only scientific consensus conference on child outcomes of corporal punishment, which occurred in 1996.² My research made me a major proponent of conditional physical punishment, as recognized in the Consultation Document for this bill and in Carter-Davies and Bristow's research summary for the Public Policy Institute for Wales.³ For example, the Consultation Document states correctly that smacking "has consistently beneficial outcomes when it is non-abusive and used primarily to back-up milder disciplinary tactics with 2- to 6-year-olds by loving parents" (p. 12). This is how the most effective

treatments for conduct disorders trained parents to enforce timeout from the 1960s to the early 1990s.^{4,5} Although back-up smacking has fallen into disfavor, a recent study showed that psychosocial treatments for conduct disorders are half as effective now as they were when smacking was used to enforce timeout.⁶

Most smacking research is on customary use rather than this optimal back-up smacking. The pattern of data for customary smacking is similar to the data pattern typical of corrective actions, defined as actions intended to correct an important problem. Table 1 summarizes the most recent published systematic reviews of child outcomes of smacking, and compares their results with similar studies of other corrective actions by parents and professionals.

The three latest reviews of outcomes of smacking get similar results from similar types of studies. Only Gershoff and Grogan-Kaylor's (2016) review supports smacking bans. Good policies for children should be based on all scientific evidence or make a convincing case that the policies are based on higher quality evidence than contradictory evidence. In this case, however, it looks like the other reviews have higher quality evidence. For example, 55% of the studies in the Gershoff & Grogan-Kaylor review used concurrent correlations, making it impossible to know whether the smacking or the child outcome came first. No one would evaluate corrective actions by professionals on the basis of concurrent correlations. For example, the fact that people staying in hospitals last month had more severe illnesses during that same month than the rest of us not in hospitals then would not count as evidence against hospitals. At the very least, studies would have to compare the severity of illnesses before hospitalization with their severity afterwards. Only studies in the last two columns did anything to account for the fact that smacked children were probably more aggressive and oppositional before being smacked.

The bottom rows of Table 1 show examples where hospitalization and psychotherapy look more harmful than smacking according to longitudinal correlations, which provide the strongest causal evidence against smacking in the only review that supports smacking bans.¹⁰ Furthermore, longitudinal studies that control for pre-existing differences in the next-to-last column indicate nearly identical effect sizes for smacking, other disciplinary responses, medical treatments and psychotherapy. For example, psychotherapy and Ritalin look just as harmful as smacking when analyzed in the same way.¹⁶ The most plausible explanation is scholar advocacy bias, despite good intentions.¹⁷ For any other corrective action, this data pattern would lead to efforts to identify the most effective way to implement that intervention, rather than opposing all hospitalization or psychotherapy for children. If other corrective actions were banned because of this pattern of evidence, it would make things worse, which may explain the huge increases in criminal assaults involving children in Sweden in the first 31 years of their mandatory smacking ban.

Table 1

Percentage of Types of Studies and Average Effect Sizes (r, beta, or partial r) for the Three Latest Meta-Analytic Summaries of Research on Child Outcomes of Smacking, Compared with Effect Sizes from Other Corrective Actions by Parents or Professionals

Meta-Analysis of Smacking	Can't tell whether smacking or outcome came first	Simple correlation; smacking came before outcome	Adjusted statistically for pre-existing child differences	Randomized evaluation (strongest causal evidence)
Ferguson (2013) ⁷	0%	43%	57%	0%
Gershoff & Grogan-Kaylor (2016) ¹⁰	55%	41%	0%	4%
Larzelere et al. (2018) ⁹	0%	0%	100%	0%
Adverse-looking effect sizes (r or beta):				
Ferguson (2013) ⁷		.16*	.08 ^{aa}	
Gershoff & Grogan-Kaylor (2016) ¹⁰	.18*	.15*		-.07 ^d
Larzelere et al. (2018) ⁹	.20 ^{ab}	.16 ^{ab}	.07 ^{aa} or -.04 ^{ac}	
Other Corrective Actions by Parents or Professionals (from representative studies)^e				
Other discipline tactics			.08 ^{aa}	
Medical treatment		.33 ^{ff}	.06 ^{aa}	
Psychotherapy		.49 ^{gg}	.10*	

Note. Positive effect sizes indicate that smacking or another corrective action predicts higher levels of adverse outcomes, such as more aggression; negative effect sizes indicate beneficial effects, such as less aggression.

^aTrivial effect size (i.e., explaining less than 1% of variations in child outcomes)

^bEstimated from studies qualifying for 4th column ("Adjusted statistically . . ."), using Gershoff & Grogan-Kaylor's (2016) method of using only simple cross-sectional or longitudinal correlations from such studies.

^cTrivial beneficial effect size from the same data, based on an alternative valid method for adjusting for pre-existing child differences on the outcome variable (as in repeated-measures ANOVA).

^dEffect sizes from previous meta-analyses: $r = -.35^*$ compared to a child deciding when to end timeout;¹¹ $r = -.35^*$ (weighted mean of three Roberts's studies).¹²

^eSummarized in Larzelere, Lin, Payton, & Washburn.¹³

^fCorrelation of overnight hospitalization with poor physical health at the end of the year.¹⁴

^gMedian effect size predicting subsequent suicides or suicide attempts from receiving therapy or medical treatment in youth.¹⁵

* $p < .05$.

1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

(we would be grateful if you could keep your answer to around 1000 words)

Canada's response to a previous attempt to ban smacking in that country seems to have accomplished the commendable goals of this bill better than a smacking ban. The ultimate goal of this proposed legislation is to improve the well-being and development of the children of Wales. By limiting the types of smacking that would be considered reasonable under British common law, Canada has achieved better outcomes for children and improved the methods Canadian parents use to raise their children. This contrasts sharply with trends following mandatory smacking bans, which have occurred only in some Scandinavian countries to my knowledge. (Most other smacking bans seem to be discretionary, not mandatory.)

In response to a constitutional challenge against the legality of any smacking, three levels of the Canadian court system reviewed the scientific and legal evidence on both sides of this important issue more thoroughly than any government has done before or since.¹

Accordingly, Canada narrowed the legal definition of reasonable force to correct children to open-handed strikes by parents to the buttocks or the limbs in 2- to 12-year-olds. In contrast

to Swedish trends after their smacking ban, most child outcomes and parenting methods have improved in Canada (comparing 1994 to 2008 national data). Surprisingly, the prevalence of physical punishment has decreased in Canada as much as in Sweden and far more than in countries with discretionary bans, such as Germany and Austria. Apparently Canada's balanced response on legal smacking has accomplished the goals of smacking bans more effectively than either mandatory or discretionary bans elsewhere. That optimal outcome is consistent with my decades of research, because it retains the parental option of using the most effective type of back-up smacking when needed, but bans overly severe types of physical punishment shown to lead to worse outcomes than alternatives to physical punishment.¹¹

Prosocial behavior showed a particularly large increase in 6- and 7-year-olds from 1994 (average score = 12.4) to 2008 (average score = 14.8). Young Canadian children also decreased significantly from 1994 to 2008 in hyperactivity (2- to 3-year-olds only), physical aggression, separation anxiety (only asked of 2- to 3-year-olds), and indirect aggression (only asked of 4- to 7-year-olds). Of nine child outcome scales, only emotional disorders became significantly worse from 1994 to 2008, and then only by a tiny amount in 4- to 7-year-olds.

Furthermore, appropriate parenting methods all increased in usage, including positive interactions and nonphysical punishments such as privilege removal and putting children in their room. At the same time, inappropriate parenting methods such as scolding/yelling and ignoring showed decreases in use.

Verbal and physical abuse have also decreased in Canada from before to after the 2004 Supreme Court decision.¹⁸ For example, Trocme et al. reported that physical child abuse throughout Canada had decreased from 5.31 cases per 1000 children in 2003 to 3.19 cases per 1000 in 2008.¹⁹

Thus Canada seems to have found an appropriate balance on the long-term pendulum swing from overly punitive parenting around World War II toward overly permissive parenting of today. Importantly, the type of back-up smacking that remains legal in Canada enforces cooperation with milder disciplinary consequences such as timeout, so that parents can rely on those methods rather than continuing to smack their children. In contrast, trends in Sweden since their mandatory smacking ban in 1979 show large increases in criminal assaults by and against children and eroding support for the types of disciplinary consequences that are especially needed for defiant children, such as privilege removal and timeout.²⁰ Therefore, Wales should emulate Canada, not Sweden.

2 The Bill's implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1

(we would be grateful if you could keep your answer to around 1000 words)

No comments about potential barriers.

2.2 Do you think the Bill takes account of these potential barriers?

(we would be grateful if you could keep your answer to around 1000 words)

No comments.

3 Unintended consequences

3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1

(we would be grateful if you could keep your answer to around 1000 words)

Yes, based on evidence from one of the few countries with mandatory smacking bans (e.g., Sweden) rather than discretionary bans (e.g., Germany and Austria). In 1999 criminologist Byron Johnson and I summarized all available evidence on whether Sweden's smacking ban had reduced physical child abuse and other violence in their country.²¹ In 2013, we updated the evidence from Swedish criminal assault statistics.²² Table 2 summarizes our findings.

From 1981 to 1994, the rates of physical child abuse of children under the age of 7 and of criminal assaults by minors against minors both increased by around 500% (i.e., 6 times as often). Some claimed that these increases occurred because minor assaults were reported more often in Sweden,²⁵ but no objective evidence adequately supported that explanation.^{26,27} Our update in 2013 tested this possibility by comparing the first two criminal statistics in Table 1 with trends in completed and attempted rapes during the same time period.²²

If the escalating trend in criminal assaults can be explained by decreasing tolerance of minor assaults, then attempted rape reports should have increased more than completed rape reports during this time period. The results were the complete opposite: Alleged rapes of children under the age of 15 increased from 24 in 1981 to 1,762 in 2010, more than a 73-fold increase. In contrast, allegations of attempted rapes of children that young increased "only" 2.8 times (24 in 1981 to 68 in 2010). Although increased willingness to report rapes may have accounted for part of these increases, some of this 73-fold increase is likely because a small, but increasing number of boys never learn to accept "No" from their mothers^{28, p. 74} or from others objecting to what they want. I have yet to see any explanation of these rape statistics from smacking-ban advocates, much less a convincing explanation.

Other evidence comes from Bussmann et al.'s 2007 survey of 5000 parents in five European countries, three that had banned smacking and two that had not done so at that time.²⁹ It is published in a book advocating smacking bans. The first surprising result is how many parents still used physical punishment in Sweden (24.1% of parents) and in Germany and

Austria (70.1, 7 and 18 years after their smacking bans). Smacking bans are unrealistic for many parents.

Fewer than 1/3 of German and Austrian parents were even aware that mild smacking had been banned, 7 and 18 years after those countries had banned smacking. The other 68% of parents thought that their laws were similar to Scotland's current laws against overly severe corporal punishment. Because of that, their Table 2 (24.2 in Durrant and Smith's book) contrasts parents who thought that mild smacking was still legal compared to those knew that it had been banned. As expected, parents who thought mild smacking was still legal were more likely to use it (beta = .26, $p < .001$), but they were less likely to resort to severe corporal punishment (beta = -.09, $p < .001$).²⁹ When parents retain the option of mild smacking, they are apparently less likely to become so frustrated that they resort to overly severe corporal punishment. In contrast, when parents no longer have mild smacking as a legal option to use, they are more likely to get increasingly frustrated until they are likely to explode with severe verbal or physical violence. This evidence supports the wisdom of the Canadian Supreme Court decision in 2004, which limited the types of smacking that were considered permissible, leading to much better results than in Sweden.

Table 2

Number of Alleged Criminal Assaults Against Minors in Sweden, 1981-2010

Crime	1981	1994	2010	% Increase (1981-2010)
Physical child abuse ^a	99	583	2157	2078.8% (21.8 times as often)
Assaults by minors ^b	93	718	2194	2259.1% (23.6 times as often)
Rapes of minors ^c	24	264	1762	7241.7% (73.4 times as often)
Attempted rapes of minors ^c	24	45	68	183.3% (2.8 times as often)

Sources: Wittrock^{23,24} and the annual Swedish criminal statistics those reports were based on from 1981 to 2010.

^aCriminal assaults indoors against a child 0 to 6 years old by a perpetrator known to the victim.

^bCriminal assaults by minors (< 15 years old) against 7- to 14-year-old victims.

^cMinors are less than 15 years old in Sweden.

4 Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)? If no, go to question 5.1

(we would be grateful if you could keep your answer to around 1000 words)

No

5 Other considerations

5.1 Do you have any other points you wish to raise about this Bill?

(we would be grateful if you could keep your answer to around 1000 words)

Stop and think about it. This bill implies that the 90% of parents who used smacking in previous generations were invariably harming their children when they decided that smacking was the best disciplinary choice at that moment. A better alternative is to identify the most appropriate smacking, which is to use it non-abusively (open-handed to the buttocks when not out-of-control due to anger) to back-up milder disciplinary tactics, such as timeout in children near the age range of 2 to 6.

Yes, the pendulum swings back and forth on many issues concerning optimal parenting. On this issue the pendulum has swung from authoritarian overly strict and punitive parenting to child-centered non-punitive parenting today. Where is the optimal type of parenting on that swinging pendulum? Based on my research, I think Western cultures are in danger of swinging the pendulum on disciplinary strictness too far against appropriate discipline in its well-intentioned effort to oppose overly strict and punitive parenting. Banning smacking may not affect the types of discipline needed for easily managed children, but it may restrict future generations of Welsh parents from the disciplinary tools they need for young oppositional defiant children.

Endnotes

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