As can readily be inferred from Chapter III, the laws of most countries still give carte blanche to “subabuse” corporal punishment of children in various settings and to varying degrees. Information published by the World Health Organization in 2002 recites that corporal punishment of children as a penal sentence was then legal in at least sixty countries; corporal punishment of children in schools and other institutions was legal in at least sixty-five countries; and corporal punishment of children in the family was legal in all but, at that time, eleven countries. The Organization reckoned that in those nations where such punishment remained legally and socially acceptable, it was still “extremely common.”

While there is strength in numbers, that does not mean that there is legality or humanity in them. It should not be overlooked, in the following pages, that each of the nations permitting corporal punishment of children is in stark violation of the international human rights law obligation to protect children from that practice. It would neither be feasible nor productive to canvas the pertinent laws of this vast majority of “rogue” countries. Instead, the focus here will be exclusively on the United States and Canada as providing sufficient exemplars of legalized parental and other corporal punishment of children. I do not choose these two out of any partiality or hostility toward the Western Hemisphere (though I am a U.S. citizen and live a stone’s throw from Ontario). I have selected the United States because the subject of corporal punishment of children is mostly regulated by states, rather than by the national government, and since there are fifty states, the United States is a plentiful source of variations on the theme. And, I have selected Canada inasmuch as its Supreme Court recently issued a decision on the legality of corporal punishment of children that is emblematic of the piecemeal reforms some countries are experimenting with.
A. THE UNITED STATES

This part presents a representative sampling of American state laws, as well as a few relevant federal laws, on corporal punishment of children. Some of the laws are pristine enactments devoid of judicial interpolation, others are comprised of statutes that have been interpretively embellished by courts, some of the laws are embodied only in judges’ holdings, and still others are administrative regulations. All are organized according to content. The state laws reviewed here are first categorized with respect to the contexts they cover, i.e., the family, schools, foster care, residential and nonresidential care, and the criminal justice system. Within each such category, the laws are then further divided by the manner in which they limit the universe of permissible corporal punishment of children. Many state laws overlap across these divisions by combining two or more standards of limitation.

To avoid the tedium sure to come from reading long lists of the names of states, this part provides summaries of the contents of state laws that are conceptually the same or mostly the same in relation to limitations placed on the punishment, with only occasional detailed discussions of the laws of individual states. Of course, each summary is supported by an endnote that sets forth citations to individual state laws. I recommend that readers, who are interested in which state is doing what, should consult these endnotes.

As to familial corporal punishment of American children, no discussion of the topic would be complete without a preliminary foray into the federal constitutional miasma that envelopes this form of discipline. The U.S. Supreme Court provided the atmospherics in DeShaney v. Winnebago County Department of Social Services, a decision concerning classic, prosecutable physical child abuse rather than reasonable corporal punishment. Nevertheless, the facts of the case deserve close attention as they bring out, in all its shamelessness, the extreme nature of the Court’s holding that, as a by-product, also normatively beglooms the terrain that anti-spanking reformers must traverse in the United States.

Joshua DeShaney had the misfortune to be born in 1979. This was truly a life fated to be “nasty, brutish, and short.” In 1980, Joshua’s parents divorced and a Court awarded custody of the child to his father. By January 1982, Winnebago County authorities were put on notice that the