Ending the Physical Punishment of Children by Parents in the English-speaking World: The Impact of Language, Tradition and Law

Bernadette J. Saunders
Department of Social Work, Faculty of Medicine, Nursing and Health Sciences
Monash University, Victoria, Australia
bernadette.saunders@monash.edu

Introduction

In an ideal world, children would ‘grow up in a family environment, in an atmosphere of happiness, love and understanding’ (Preamble, United Nations Convention on the Rights of the Child (CRC), 1989). Yet children throughout the world commonly endure pain and humiliation in the guise of discipline at the hands of family members and others entrusted with their care and protection. Ending the physical punishment of children remains an enormous challenge.

In countries where children’s rights to dignity and physical integrity are respected and acknowledged in law, it is more likely that children will be appropriately disciplined without physical punishment. Societal norms, typically endorsed in law, and reflected in attitudes toward children and views about their rightful place in society, affect the manner in which all children in a society may be treated. In societies which tolerate even limited physical punishment as discipline or control, it is a response to children that adults may unthinkingly adopt simply because they can. As an often assumed and unquestioned parental entitlement, physical punishment is arguably the prime manifestation of children’s position in a society; it is a clear ‘badge of childhood’ because children are singled out as ‘the only people who can legitimately be hit with impunity’ (Freeman, 1996a:100). In societies that condone its use, even children who are not physically punished may witness unquestioned ‘disciplinary’ violence directed at other children at home and in public. This is a distressing reminder of children’s low status and vulnerability. Along with the UN Committee on the Rights of the Child and children’s rights advocates around the world, Freeman thus contends that ‘[t]here is probably no more significant
step that could be taken to advance the status and protection of children than to outlaw the practice of physical punishment' (1996a:100).

This paper primarily focuses on the English-speaking, common law countries – Australia, Canada, and the United Kingdom – that have ratified the CRC but have not yet fully outlawed physical punishment. I also briefly reflect on New Zealand, the first English-speaking country to ban physical punishment, and the United States which has neither ratified the CRC nor fully outlawed physical punishment.

A society's language, traditions and laws combine to maintain its status quo. Thus, if we are to fully recognize children's human rights, the language, traditions and laws that promote and perpetuate physical punishment in childhood must be targeted and changed. This paper draws separate attention to language, tradition and law with a view to envisioning a state of affairs where adults and children are accorded equal respect as human beings and any degree of physical violence towards children is regarded as an aberration.

Background

Children's status in society and the laws and policies in place to ensure their optimal development are clearly interrelated. Article 1 of the CRC defines a child as ‘below the age of 18 years unless under the law applicable to the child, majority is attained earlier’. In the English-speaking world, children may be criminally liable as young as ten yet, with the exception of both New Zealand where physical punishment is prohibited and Canada where it is limited to between the ages of two and 12, parents may lawfully use ‘reasonable’ physical force to chastise their children from birth to 18 years old.

Law and societal values

Law is an important symbol – it reflects the values of the society in which it is imposed. Law may also perform an educative or social engineering function, encouraging the development of attitudes and the adoption of behaviours conducive to positive outcomes for the people in consideration of whom it was instigated. It is encouraging for children in English-speaking countries that New Zealand has outlawed physical punishment in all settings (see Crimes (Substituted Section 59) Amendment Act 2007). While reasonable force to protect or restrain a child in specified circumstances remains lawful, clauses in the Act specifically exempt ‘the use of force for the purpose of correction’, and emphasise already existing police discretion not to prosecute ‘where the offence is considered to be so inconsequential that there is no public interest