

Cynghrair o sefydliadau sy'n ceisio diwygio'r gyfraith i rhoi'r un amddiffyniad i blant ag sydd gan oedolion rhag ymosodiad a hyrwyddo disgyblaeth gadarnhaol di-drais

An alliance of organisations seeking legal reform to give children the same protection under the law on assault as adults and promoting positive non-violent discipline

## International experience of introducing a 'smacking ban'

*Banning all physical punishment of children is a human rights obligation. Research into the experience of the states which have banned all physical punishment can inform effective implementation.*

*We are not aware of any identified negative effects, but of course the speed with which attitudes and practice changes and physical punishment is eliminated in reality depends on the effective linking of public education with implementation. Every country has its own legal system and child protection system and so the detail of the legislation as well as of implementation differ accordingly.*

*Apart from Sweden, Finland and New Zealand, little research has been undertaken in the other countries that have banned all forms of physical punishment, apart from some studies on prevalence. This briefing therefore concentrates mainly on Sweden, Finland and New Zealand with reference to other countries on pages 7 and 8.*

*All research agrees that, although support for physical punishment is everywhere declining, no country of the 34 which have a full ban has enacted it on the back of favourable public opinion.*

*Prohibition has been consistently introduced against the majority view of parents and the general public, though these views have been shown to change rapidly after prohibition, particularly among younger parents. A ban therefore requires leadership from Government, rather than reactive policy based on popular polls.*

### Sweden

Sweden was the first country to explicitly prohibit all forms of physical punishment, in 1979, and has inevitably attracted the most attention.

When the law was passed in 1979 Swedish critics predicted that the ban would lead to large numbers of parents being branded as criminals and that it breached rights to religious freedom and to respect for private and family life. The government therefore undertook to ensure that the new legislation achieved its intentions, including commissioning regular independent research to discover the impact of the ban. In 2009 the Swedish government published a booklet *Never Violence – Thirty Years on from Sweden's Abolition of Corporal Punishment* which

summarises this research. The findings overwhelmingly confirm that the ban has been followed by positive results.

### **Changes in Swedish attitudes and practice**

Although smacking does not entirely disappear (any more than other forms of domestic violence disappear when made unlawful), both children and parents in Sweden report a steady decrease in the use of physical punishment over the three decades, particularly where severe or frequent punishment is involved, and also parallel changes in attitude, so that parental support for physical punishment is now below 10%:

“In 1981, two years after the anti-smacking ban was introduced – and following an unprecedented publicity campaign – more than 90 *per cent* of Swedish families were aware that the law had changed. But did the campaign also produce changes in values and actual behaviour? The Government Committee on Child Abuse concluded in its report “Child Assault – Prevention and Action” [2001] that most preschool children in the 1960s had been smacked by their parents once or several times per year, and that one third were smacked regularly. Figures from the 1970s indicate that less than 50 *per cent* of children experienced smacking during this era. During the 1980s this figure fell further to around one third. After 2000, data provided by parents suggests it is now down to just a few *per cent*. Not only has the number of children who are smacked fallen, but those who are still smacked experience this less often and only rarely with implements (1–1.5 *per cent*).

Not until 1994 were children themselves asked to say how often they were smacked at home. In 1994, 35 *per cent* said they had been smacked at some previous point in time, and after 2000 this figure has fallen considerably. One in ten of those who had been smacked said they were smacked regularly, and the same ratio said they were smacked with implements. Thus, schoolchildren born around 1990 say they are smacked considerably less often and with less force than children born ten years earlier.

The Swedish Government attributes these changes in attitudes to a number of factors, not just the smacking ban – for example Sweden’s highly developed welfare system, ante- and post-natal support for children, universal daycare provision and greater equality between the sexes. It also points out that surveys on parental views are not necessarily an accurate gauge of parental practice, but that increasingly:

“[the research] shows a narrowing gap between the number of parents who are positive to physical punishment and the number who actually inflict physical punishment. In the 1960s, there was a wide gap between what respondents considered to be right and how they actually behaved: many thought it was wrong to use physical punishment but did so anyway. As time went by, people learned new ways to raise their children, gaining new insight and experiences that enabled them to dismantle old codes of behaviour. For every decade that passed, fewer children were subjected to physical punishment – and more parents stopped doing what they believed was wrong.”

### **Serious assaults on Swedish children**

A decline in severe abuse requiring state intervention is obviously one of the most desired outcomes of this reform. However, given that all countries’ child protection systems only address

the tip of the iceberg of physical child abuse, this is a particularly tricky area to research. The Swedish Government reports:

“Interviews with parents in 1980, 2000 and 2006 reveal a sharp decline in the more serious forms of physical punishment, such as punching or use of implements. This means that forceful punishments with the potential to cause serious injury have decreased substantially...

“Cases of suspected assault on children reported to the police have increased since the early 1980s, rising by 190 per cent between 1990 and 1999 (*Children and Assault – A Report on Physical Punishment and Other Abuse in Sweden in the Late 1990s*).”

Opponents of law reform have claimed that this increase in reporting reflects an actual increase in assaults and use these figures to suggest that banning physical punishment increases child abuse. But this increase in reporting reflects the fact that tolerance of assaults on children has decreased, so people are more willing to inform the authorities about suspected cases. Violence that was once a family secret is more likely to be reported today because we are less likely to excuse or minimize instances of physical abuse of children by parents or others close to them.

Contrary to what the law’s critics predicted in 1979 – and contrary to what today’s opponents of law reform continue to predict – the proportion of reported assaults that are prosecuted has not increased. This is partly due to the fact that it is extremely difficult to obtain convictions for crimes committed within the four walls of a home where there are no witnesses other than the perpetrator and the child.

The legal system does not allow a lower burden of proof in cases of assault on children than in other criminal cases. But the fact that only a small proportion of child assault reports lead to prosecution does not mean that children and parents do not receive support or protection. Social services investigate all allegations of child maltreatment, assess the family’s need for support and the child’s need for protection and provide a range of supportive and preventive measures.”

### **Juvenile violence and delinquency**

The Government report includes official statistics on youth crime because of claims being made that “Swedish youth have been getting into more trouble since physical punishment was banned.” Statistics show that there has been a decrease in youth crime generally in Sweden since the mid-1990s, though violent offences have remained relatively constant. The report also notes the research on risk factors leading to criminality, showing that poor or violent parenting significantly increase the risk of children engaging in criminal activity.

### **“Today’s opponents of law reform”**

The Swedish Government’s report refers to “today’s opponents of law reform” because a few academics and campaigners have written inaccurately about the impact of the Swedish law. Their assertions have been investigated and refuted.

In 2005 Durrant produced a 40-page booklet specifically refuting every one of the claims made

by a Dr Robert Larzelere and published in the UK by the Christian Institute and Families First.<sup>1</sup> She points out that reporting of child abuse rose but not abuse itself, in that there was no increase in reports of aggravated (i.e. more serious) assaults and that a study by the Swedish National Crime Prevention Council concluded the increase seen in reporting did not reflect a true increase in violence against children; that his claim about the numbers of children removed from home is based on a serious misreading of 1982 care figures, which in any event declined by 20% over the next decade and that reports of child on child assaults can be shown to have risen at the point when zero tolerance for school bullying was introduced, rising and falling in correlation with school terms and holidays. She also challenged his objectivity on this issue in general. Larzelere then posted a response to her refutation, but Durrant said she was tired of repeating herself and would not engage with him again.<sup>2</sup>

Also quoted by opponents of the Swedish reform is UNICEF's Innocenti Research Centre's 2003 publication *Report Card 5: A League Table of Child Maltreatment in Rich Nations*. This report shows a table of the annual number of deaths from maltreatment among children under the age of 15 years averaged over a five year period and expressed per 100,000 children in the age group, in which Sweden has more such deaths on average (0.5) than the UK (0.4) (as did Denmark and Finland). However when deaths of "indeterminate intent" are factored in, the UK slipped to seven places below Sweden and the other Scandinavian countries.

UNICEF is frank in confessing that both tables are suspect, noting that while the first table is plainly inaccurate, the revised table also has its flaws: "It may, for example, punish countries that are more sensitive to the child abuse issue and more zealous in reporting it (for example those countries in which suspicious child deaths are more carefully investigated and more likely to be classified under 'undetermined cause' as opposed to 'accident')," which is clearly relevant to Sweden which has a population highly sensitive to all forms of child abuse.

Even more significantly, the report notes that the child deaths in this table are not necessarily part of longer-term maltreatment: "A review of almost 100 child deaths in Sweden, for example, has shown that more than half involved a mother or father who killed his or her children before committing suicide." In other words, the majority of non-accidental deaths of Swedish children are linked to parental mental illness rather than to a history of maltreatment. Where the UK is concerned, however, fewer than 10% of child killings involved parental suicide.<sup>3</sup>

## Finland

Since Finland enacted prohibition in 1983, it has seen dramatic declines in the prevalence of corporal punishment. A major 2008 study on violence against children published by the Police College of Finland involved over 13,000 children aged 12-15 and was designed to allow direct comparison with research on the topic carried out in 1988. In 1988, around a quarter of children

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<sup>1</sup> See, for example, Durrant, J. E. (2005) *Law Reform and Corporal Punishment in Sweden: Response to Robert Larzelere, The Christian Institute and Families First*, University of Manitoba

<sup>2</sup> Larzelere R. E. (2005) *Differentiating Evidence from Advocacy in Evaluating Sweden's Spanking Ban: A Response to Joan Durrant's Critique of my Booklet "Sweden's Smacking Ban: More Harm Than Good"*  
<http://ches.okstate.edu/facultystaff/Larzelere/rdurrunl.75.pdf>

<sup>3</sup> Peter Sidebotham, Sue Bailey, Pippa Belderson, Marian Brandon, *Fatal child maltreatment in England, 2005-2009*, *Child Abuse & Neglect*, Volume 35, Issue 4, April 2011, pp 299-306;

had been “smacked” before age 14, and around two thirds had had their hair pulled. In 2008, around 10% had been “smacked” and around a third had had their hair pulled. The overall percentage of children who had experienced “mild” punitive violence from their parents declined from 72% in 1988 to 32% in 2008; the percentage of children who had experienced severe punitive violence dropped from 8% to 4%. Thus there had been a clear reduction in all forms of corporal punishment and other parental violence against children in the past twenty years, with the most significant reduction in the “relatively mild forms of violence previously considered socially acceptable types of corporal punishment” (p. 160).<sup>4</sup> A 2012 study, again by the Police College, involved more than 3,000 parents of children aged under 13 and found that less than one per cent of parents reported hitting their children with an object, punching them or kicking them.<sup>5</sup> The study also found that nearly all parents were aware of the prohibition of corporal punishment; this was confirmed by a separate 2012 survey which found that 97% of parents knew that corporal punishment was prohibited.<sup>6</sup>

Adult approval of corporal punishment has similarly declined since prohibition. A series of six nationally representative surveys carried out by the National Institute of Legal Policy, Central Union for Child Welfare and research company Taloustutkimus between 1981 and 2012 show a consistent decline in adult acceptance of corporal punishment: from 47% in 1981 to 17% in 2012.<sup>7</sup> In the 2012 survey, 10% of parents agreed that corporal punishment of children was acceptable.<sup>8</sup>

Young people are similarly negative towards corporal punishment: in a 2011 survey of 1,044 12-16 year olds, 65.8% disagreed that “parents have a right to use mild forms of corporal punishment on their children (e.g. smacking)” and 87% agreed that “children must be protected from all forms of violence”.<sup>9</sup>

Despite this very positive progress, work remains to be done to eliminate all corporal punishment. Acknowledging this, in 2010 the Ministry of Social Affairs and Health released *Don't Hit the Child!*,<sup>10</sup> a five year action plan to reduce corporal punishment. The plan aims to continue and accelerate the progress made, focussing particularly on reducing corporal punishment of groups of children who are particularly likely to experience it (including young children, children with disabilities and children of immigrant families). The views of almost 400 children were considered in developing the plan, which proposes to increase support for parents, provide education on children's rights to relevant professionals and provide information for children at school and online.

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<sup>4</sup> Ellonen, N., Kääriäinen, J. Salmi, V. & Sariola, H. (2008), *Lasten ja nuorten väkivaltakokemukset. Tutkimus peruskoulun 6. - 9. luokan oppilaiden kokemasta väkivallasta*, Poliisiammattikorkeakoulun Raportteja 71/2008

<sup>5</sup> Ellonen, N. (2012), *Kurin alaiset : lasten ja vanhempien välisten ristiriitojen ratkaiseminen perheissä*, Tampere : Poliisiammattikorkeakoulu

<sup>6</sup> Central Union for Child Welfare (2012), *Attitudes to disciplinary violence*, Finland: Central Union for Child Welfare & Taloustutkimus Oy

<sup>7</sup> Sariola, H. (2012), *Violence against children and child sexual abuse in Finland*, presentation given at the Central Union for Child Welfare, Helsinki 30 August 2012

<sup>8</sup> See note 3

<sup>9</sup> UNICEF (2011), *Nordic Study on Child Rights to Participate 2009-2010*, Innolink Research

<sup>10</sup> Ministry of Social Affairs and Health (2011), *Don't hit the child! National Action Plan to Reduce Corporal Punishment of Children 2010–2015*, Helsinki: Ministry of Social Affairs and Health

## New Zealand

New Zealand was the first English-speaking country to ban all forms of physical punishment, in 2007. The measure was introduced by the Labour-Progressive coalition government, but supported by the main opposition party and adopted by an overwhelming majority of 113 to 8.

Regular police reports to the government show that – contrary to scaremongering allegations – parents have not been prosecuted for “light smacking.” Surveys show a decline in the acceptability and use of physical punishment since abolition. In 2009 there was a citizen-initiated and non-binding referendum against the smacking ban, but despite this the next centre-right coalition government decided to keep it.<sup>11</sup>

### Prosecutions

Because of public anxieties, when the ban was being introduced the government undertook to ask the police to collect data on their responses to cases of parental physical punishment. Between 2007 and 2012 the police produced ten periodic reports on this question. A summary of the last report recorded that:

- “(i) Results for the tenth review are consistent with previous reviews.
- (ii) There were three prosecutions for smacking in the tenth review period. This means that there have now been eight prosecutions for “smacking” since monitoring began in June 2007.
- (iii) There is an increase in the number of events attended by police during this review period which is consistent with reduced tolerance and increased reporting of child assault events.”

In November 2009 the Chief Executive of the Ministry for Social Development and Employment, as required under statute, reported to the Minister that the police data showed that, although there had been a rise in the reporting of violence generally, parents had not been prosecuted for “light smacking.” He comments that the police believe that the new law “has had a minimal impact on their business” and there has been no change in the reporting of smacking since it was enacted. He notes that twelve acts of what the police call “minor physical discipline” were prosecuted, but comments that in his view “these could not reasonably be described as ‘minor acts’” because they involved, for example, the child being punched in the face or hit multiple times or assaulted in anger.<sup>12</sup>

### Reduced use of physical punishment

In the wake of prohibition of all corporal punishment in 2007, the Children’s Commissioner commissioned a benchmark survey in order to gauge changes in attitudes towards corporal punishment and the law.<sup>13</sup> Of a nationally representative sample of 750 adults, 43% supported the law, compared with 28% who opposed it.

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<sup>11</sup> The 2009 referendum question was “Should a smack as part of good parental correction be a criminal offence in New Zealand?” Although it received a large majority of “no” votes, the confusing and ad hominem wording of the question was widely criticised. In September 2010 the far right party (ACT) tabled for a bill to repeal the anti-smacking law, which was defeated by 115 to five (the five ACT MPs).

<sup>12</sup> Hughes P, Chief Executive Ministry of Social Development (2009) Report to the Minister for Social Development and Employment: pursuant to section 7(2) of the Crimes (substituted section 59) Act, New Zealand Ministry of Social Development

<sup>13</sup> UMR Research, 2008, Omnibus Survey Report: One year on: Public attitudes and New Zealand’s child discipline law, Office of the Children’s Commissioner

The research found a high awareness of the law change (91%), and high levels of support (84-89%) for the principle of equal protection from assault for children and adults. Support for the use of corporal punishment was found to be declining over time: 58% of respondents agreed that there are some circumstances in which smacking a child is acceptable, compared with 87% in 1993 and around 90% in 1981. The research confirmed that attitudes and knowledge of the law were changing, even over the one-year period since its introduction. The report includes detailed recommendations for continued and improved implementation of the law based on the issues raised.

In 2012 a survey was commissioned by conservative lobby group Family First of 500 parents of children aged less than 12. It found that 44% said they had not smacked their children since the 2007 ban; 29% said they had smacked rarely, 21% per cent occasionally, 1% frequently and 5% were unsure or refused to answer.

These findings were interpreted differently. Family First national director said the poll showed parents were “flouting the anti-smacking law, and will continue to do so, despite risking prosecution”. However Children’s Commissioner Dr Russell Wills, a paediatrician, said:

“The striking thing about that data is the large number of parents who never hit their children or do so only very rarely. It suggests to me that large numbers of New Zealand parents are avoiding hitting their children and that’s consistent with my experience clinically.

Since the law was changed there has been a sharp increase in parents self-reporting to social services for help with their parenting. There has been a substantial increase in parents attending parenting courses that provide alternatives to hitting and are much more effective.

I think all that shows that New Zealand parents understand that hitting is an ineffective way of disciplining children and they are looking for alternatives.”

## Other countries

As mentioned above, little research has been undertaken in the other countries that have banned all forms of physical punishment, aside from some prevalence studies. This research has nevertheless shown that although support for physical punishment is everywhere declining, no country of the 34 which have a full ban has enacted it on the back of favourable public opinion.

Prohibition has been consistently introduced against the majority view of parents and the general public, though these views have been shown to change quite rapidly after prohibition, particularly among younger parents. A ban therefore requires leadership from Government, rather than reactive policy based on popular polls.

A study in **Poland** conducted in 2011 on behalf of the Children’s Ombudsman, found decreases in the social acceptance of parents hitting children a year after full prohibition (2010). In research

published in 2008, 78% of adults agreed that “there are situations when a child needs to be smacked”, compared to 69% in 2011; in 2008, 19% disagreed with the statement, compared to 27% in 2011. However, earlier comparative research – between 1994 and 2008 – did not reveal similar decreases in public approval of corporal punishment, suggesting that law reform and accompanying public education activities have had a quick impact on public opinion.<sup>14</sup>

As regards other European countries, a study carried out between October and December 2007 examined five European countries: **Sweden, Austria and Germany**, which have prohibited corporal punishment, and **France and Spain** which had not prohibited corporal punishment at the time of the study (Spain prohibited all corporal punishment in December 2007).<sup>15</sup> Five thousand parents (1,000 in each nation) were interviewed about their use of and attitudes towards corporal punishment.

The findings showed that nearly all forms of corporal punishment were used significantly less in countries which had prohibited than in those where corporal punishment was still lawful. For example, while over half of French and Spanish parents had “spanked” their child’s bottom, only 4% of Swedish parents and around 17% of Austrian and German parents had done so.

Alarmingly, nearly half of Spanish and French parents said they had used severe corporal punishment (a resounding slap on the face, beating with an object or severe beating) on more than one occasion, compared with 14% of Austrian and German parents and 3% of Swedish parents.

Parents in nations where corporal punishment was prohibited at the time of the study showed less acceptance of justifications for corporal punishment: 20% of Spanish and 27% of French parents agreed that “a slap on the face is sometimes the best/quickest way to deal with a situation”, compared with 15% of German, 13% of Austrian, and 4% of Swedish parents.

From this survey one can, again, be confident that a smacking ban contributes to a reduction of violence to children, including severe violence likely to trigger a prosecution or safeguarding intervention.

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Details of how all 34 countries that have already prohibited the physical punishment of children in all settings introduced the change are available from the Global Campaign to End All Corporal Punishment of Children website at

[http://www.endcorporalpunishment.org/pages/progress/prohib\\_states.html](http://www.endcorporalpunishment.org/pages/progress/prohib_states.html)

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<sup>14</sup> TNS OBOP, 2011, *Social resonance of the amendment to the Act on Counteracting Domestic Violence*, Ombudsman for Children of the Republic of Poland

<sup>15</sup> Bussmann, K. D. (2009) *The Effect of Banning Corporal Punishment in Europe: A Five-Nation Comparison*, Martin-Luther-Universität Halle-Wittenberg