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THE “SPANKING” LAW: SECTION 43 OF THE *CRIMINAL CODE*

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EXECUTIVE SUMMARY

Canadians have a wide range of views about what comprises appropriate physical contact when parenting or teaching a child. These differences have prompted debates about what behaviours are harmful enough that they should be prohibited.

In Canada, the crime of assault is broadly defined. Depending on the circumstances, any non-consensual touch can be considered an assault and can lead to criminal sanctions.

Section 43 of the *Criminal Code* provides parents and teachers with an explicit defence, allowing them to use reasonable force on a child. In 2004, the Supreme Court of Canada interpreted this provision to determine its scope. As a result of that decision, it is illegal to use physical force to discipline teenagers or children under the age of two, to use objects – such as rulers or belts – against a child of any age, or to slap the head of any child. In addition, teachers are prohibited from using force against children as punishment, but they can use reasonable force, for example, to remove a child from a classroom or to make a student comply with instructions.

In recent decades, civil society organizations and the United Nations Committee on the Rights of the Child have called upon Canada to repeal section 43 entirely, arguing that the defence is unnecessarily broad and children are harmed as a result. Many countries have made similar legislative changes to ban all forms of corporal punishment.

Several bills have been introduced in Parliament with the goal of repealing section 43. If it were to be repealed, other defences and prosecutorial discretion may be available to protect parents and teachers who use non-harmful physical force in reasonable circumstances. Debates about the applicability and scope of these defences and of prosecutorial discretion are ongoing.

THE “SPANKING” LAW: SECTION 43 OF THE *CRIMINAL CODE*

1 INTRODUCTION

Section 43 of the *Criminal Code*, which expressly offers parents and teachers a defence for using reasonable force to discipline a child, is a controversial provision of Canada’s criminal law.

Recent decades have seen a growing movement to end all forms of physical punishment of children and youth in Canada, including through the repeal of section 43. Legislation to repeal section 43 was introduced in both the House of Commons and the Senate as recently as 2022.

Other advocates, while acknowledging that abuse is never justified, have argued that minor physical correction is acceptable in certain circumstances and that individuals should not risk criminal prosecution as a result of their parenting techniques.

This paper reviews the content of section 43 and its judicial interpretation by the Supreme Court of Canada, a majority of which upheld the provision as constitutional in 2004. The paper then discusses past proposals to repeal the section and the legal effects a repeal would have, given the definition of assault in Canada’s *Criminal Code* and the availability of common law defences. Lastly, public opinion on abolishing section 43 is briefly examined, as is research on the effects of physical punishment and international perspectives on the issue.

2 SECTION 43 OF THE *CRIMINAL CODE*

Section 43 of the *Criminal Code* 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.¹

The defence of “lawful correction” or “reasonable chastisement” appeared in Canada’s first *Criminal Code* in 1892. The content has remained virtually unchanged since that time, with the exception of the removal of masters and apprentices from among the relationships covered by the defence.²

3 SUPREME COURT OF CANADA RULING REGARDING SECTION 43

On 30 January 2004, the Supreme Court of Canada released its decision in the case of *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*.³ The issue was whether section 43 is unconstitutional.

Six of nine justices concluded that the provision does not violate the *Canadian Charter of Rights and Freedoms* (the Charter), as it does not infringe a child’s rights to security of the person (section 7) or a child’s right to equality (section 15), and it does not constitute cruel and unusual treatment or punishment (section 12).

Three justices dissented in three different respects.

3.1 OPINION OF THE MAJORITY

The majority of justices in *Canadian Foundation for Children, Youth and the Law* upheld section 43 on the basis that the protection it affords only extends to parents, teachers and persons who have assumed all of the obligations of parenthood. Further, they noted that the section maintains a risk of criminal sanction if force is used for non-educative or non-corrective purposes, and it limits the type and degree of force that may be used.

The justices stated that the words “by way of correction” in section 43 mean that the use of force must be sober and reasoned, address actual behaviour and be intended to restrain, control or express symbolic disapproval. They also noted that the child must have the capacity to understand and benefit from the correction, which means that section 43 does not justify force against children under the age of two or those with certain disabilities.

The justices further clarified that the words “reasonable under the circumstances” in section 43 mean that the force must be transitory and trifling and must not harm or degrade the child. They stated that the idea is to look at the need for correction in the circumstances rather than the gravity of the child’s misbehaviour. According to the decision, reasonableness further implies that force may not be administered to teenagers, as this can induce aggressive or antisocial behaviour. Moreover, force may not involve objects, such as rulers or belts, and it may not be applied to the head.

Finally, the majority concluded that, while corporal punishment itself is not reasonable in the school context, teachers may use force to remove children from classrooms or to secure compliance with instructions.

3.2 DISSENTING OPINIONS

In his dissenting opinion, Justice Ian Binnie concluded that section 43 violates children’s equality rights under section 15 of the Charter. However, he noted that the infringement is justified under section 1 as reasonable in a free and democratic society, although only with respect to parents and persons standing in their place. Justice Binnie also concluded that, because the justification rests on respecting the family environment, where only limited corrective force is used to carry out important parental responsibilities, the defence in section 43 should not be available to teachers.

Justice Louise Arbour, also dissenting, found section 43 unconstitutionally vague and therefore a violation of children’s security and not in accordance with principles of fundamental justice under section 7 of the Charter. Citing a lack of judicial consensus on what constitutes force that is “reasonable under the circumstances,” she found section 43 to be incapable of providing clear guidance to parents, teachers and law enforcers.

In a third dissenting opinion, Justice Marie Deschamps determined that section 43 violates section 15 of the Charter because it “encourages a view of children as less worthy of protection and respect for their bodily integrity based on outdated notions of their inferior personhood.”⁴ Justice Deschamps stated that although reasonable flexibility in child-rearing is a valid objective, a law that permits more than only very minor applications of force unjustifiably impairs the rights of children. Justice Deschamps would therefore have struck down section 43 for both parents and teachers.

4 PROPOSALS FOR REFORM

In 1984, the Law Reform Commission of Canada recommended the repeal of section 43 as a defence for teachers.⁵ A majority of the Commission suggested that section 43 be maintained for parents, primarily out of concern that the criminal law would otherwise unduly encroach on family life for every trivial slap or spanking.⁶

Twenty years later, in a report on children’s rights in Canada, the Standing Senate Committee on Human Rights recommended the repeal of section 43 and highlighted the need for a public education campaign on the negative effects of corporal punishment. It also recommended further research into alternative methods of discipline and called on the Department of Justice Canada to determine whether existing common law defences should be made expressly available to those charged with assault against children.⁷

Most recently, in 2015, Prime Minister Justin Trudeau committed to implementing⁸ the 94 Calls to Action made by the Truth and Reconciliation Commission of Canada (TRC),⁹ one of which was to repeal section 43. This call to action was supported by documented evidence of widespread corporal punishment and abuse of children by staff in the residential school system. The TRC noted:

The failure to develop, implement, and monitor effective discipline sent an unspoken message that there were no real limits on what could be done to Aboriginal children within the walls of a residential school. The door had been opened early to an appalling level of physical and sexual abuse of students, and it remained open throughout the existence of the system.¹⁰

These calls for reform have been accompanied by numerous legislative attempts to abolish corporal punishment over the past decades, primarily in the form of private members’ bills introduced in the House of Commons or public bills introduced in the Senate, most recently in 2022.¹¹

5 LEGAL EFFECTS OF REPEALING SECTION 43

5.1 APPLICATION OF OTHER *CRIMINAL CODE* PROVISIONS

If section 43 were repealed, the general assault provisions of the *Criminal Code* would apply to anyone who uses force against a child without the child’s consent. A statutory defence based on “reasonable chastisement” would no longer be available to parents, teachers and guardians. Because section 265 of the *Criminal Code* prohibits the non-consensual application of force, and because section 279 prohibits forcible confinement of another person without lawful authority, some have expressed concern that abolishing the defence in section 43 would criminalize parental conduct that falls short of what is usually considered corporal punishment, such as restraining an uncooperative child in a car seat, physically putting a child to bed or physically restraining a child to avoid a dangerous situation.¹²

Possible responses are that such actions could be defended under common law doctrines, which are discussed in section 5.2 of this paper. Alternatively, law enforcers may, in practice, exercise discretion not to prosecute. For example, while the specific guidelines vary by province, Crown prosecutors must consider whether proceeding with a charge is in the public interest, taking into account factors such as the seriousness of the incident.¹³ Comparisons might be made to various types of unwanted contact between adults that legally constitute assault but are addressed through other measures, such as public education and workplace policies. Varying degrees of culpability, depending on the severity of the physical force used, may also be addressed through sentencing.

One way of dealing with the concern that some parental conduct could be criminalized if section 43 were repealed could be to build a provision into the law confirming that reasonable force may be used for the purposes of protection. Some examples would be averting immediate danger or harm, preventing a child from committing a crime, or “performing the normal daily tasks that are incidental to good care and parenting.”¹⁴

5.2 RESORT TO COMMON LAW DEFENCES

As noted above, if the defence of reasonable chastisement in section 43 were repealed, common law defences would remain.¹⁵ The common law defence of necessity precludes criminal responsibility in emergency situations for involuntary conduct aimed at protecting oneself or others. As it is based on the true involuntariness of an action, the defence has been interpreted narrowly.¹⁶ Three elements must be present:

- imminent peril or danger;
- the absence of a reasonable legal alternative; and
- proportionality between the harm inflicted and the harm avoided.

While the defence might be available, for example, to a parent preventing a child from running into the street, it would not be available to a parent who, with or without thinking, strikes a child who is misbehaving.

The *de minimus*¹⁷ defence is an alternative common law defence that precludes punishment for a trivial or technical violation of the law. The *de minimus* defence depends on whether the offence may be viewed as not serious and the offender not deserving of criminal sanction. Compared to that of necessity, this defence is more likely to relieve parents and guardians of criminal convictions resulting from minor forms of physical punishment. However, it might not be as available to teachers, given society’s growing lack of acceptance of the use of corporal punishment in schools. Moreover, there continues to be academic debate about whether and how the *de minimus* defence should apply in the context of assault.¹⁸

Finally, the defence of deemed consent suggests that parents and caregivers are precluded from criminal responsibility for ordinary parenting tasks undertaken for the benefit of a child, such as burping, changing or transporting an infant.¹⁹ However, the full scope of this defence is unclear due to the rarity of parents being charged for situations in which the defence of deemed consent²⁰ could be available. If section 43 were repealed, it is possible that the boundaries of this defence would be further developed through case law.

5.3 PROVINCIAL LAWS

Through their legislative authority over education and child protection, some provinces and territories have already explicitly prohibited corporal punishment in schools, childcare facilities and foster care.²¹ Quebec removed references to a “right of correction” from the *Civil Code of Québec* in 1994.²² However, legislation is inconsistent across the country. Should Parliament repeal section 43 under its criminal law power, physical punishment of children would become unlawful in all Canadian jurisdictions. Any provincial or territorial law that remained inconsistent would yield to the paramount federal statute. The repeal of section 43 would therefore create legal consistency across Canada.

6 PUBLIC OPINION IN CANADA AND SOCIAL SCIENCE RESEARCH

The issue of whether parents should be permitted to physically punish their children is divisive in Canada. A national survey in 2003²³ indicated that while a large majority of respondents (69%) were in favour of repealing section 43 of the *Criminal Code* with respect to teachers, fewer (51%) supported ending the provision for parents. The same survey found that respondents were more inclined to support the removal of section 43: if guidelines were developed to prevent prosecutions for minor slaps or spanks (60%); if research demonstrated that physical punishment is ineffective and potentially harmful (61%); or if research showed that repealing section 43 would decrease abuse (71%).

Using a smaller population sample in 2012, a survey of young adults without children indicated that 46% were in favour of repealing section 43 if guidelines are developed to prevent prosecutions of minor slaps or spanks, while 26% disagreed with repealing it and 17% had “favourable attitudes” toward spanking.²⁴

Similarly, a poll on moral values conducted by the Angus Reid Institute in 2016 indicated that 57% of Canadians regard spanking a child as “always or usually morally wrong,” while 32% viewed spanking as “always or usually morally acceptable.”²⁵

Nevertheless, according to an online study of 1,000 adults conducted by Research Co. in 2018, 74% of Canadians agree that parents should be allowed to physically discipline their children and 43% think that teachers should be allowed to do so.²⁶

Over 650 organizations in Canada have endorsed the position that physical punishment of children and youth plays no useful role in their upbringing and they call for the same protection from assault for children as that given to Canadian adults.²⁷ Conversely, other groups support the parental protection

offered by section 43 and argue that parents should be free to decide how to discipline their children, provided that it is fair, reasonable and never abusive.²⁸

A growing body of research indicates that corporal punishment does have detrimental effects on children.²⁹ According to these studies, corporal punishment places children at risk of physical injury, physical abuse, impaired mental health, a poor parent/child relationship, increased childhood aggression and antisocial behaviour, and increased violence and criminal behaviour as adults. However, these findings are disputed in other studies. The two main criticisms are that research on the negative effects of corporal punishment does not adequately distinguish between physical punishment and physical abuse, and that research cannot determine whether the negative outcomes attributed to physical punishment are actually caused by the punishment.³⁰

Self-reported data about Canadians’ childhood experiences³¹ indicate that approximately 54% of women and 56% of men were spanked or slapped on the hand by a parent or guardian during childhood. Moreover, approximately 22% of women and 25% of men experienced physical abuse during childhood, which includes, for example, being kicked, pushed, choked or burned, or being hit in the face, head or ears by an adult. Most Canadians who experienced physical abuse said that the most serious incident they experienced was committed by a parent or step-parent (73% of women and 66% of men), while for a smaller proportion, it was committed by a teacher, professor or tutor (3.5% of women and 9.2% of men).³²

Finally, certain groups are more likely to have experienced abuse as children, including 2SLGBTQI+ people, First Nations and Métis people, and people with disabilities.³³

7 INTERNATIONAL PERSPECTIVES

In 1991, Canada ratified the United Nations *Convention on the Rights of the Child*, article 19 of which mandates the protection of children from all forms of physical or mental violence, injury or abuse.³⁴ In response to reports from Canada regarding the action it has taken to meet the requirements of this Convention, the United Nations Committee on the Rights of the Child has repeatedly recommended that the physical punishment of children be prohibited and that section 43 be removed.³⁵ Most recently, Canada has responded that it is “continu[ing] to explore how best to respond to the TRC’s Call to Action 6 to repeal section 43 of the *Criminal Code*.”³⁶

At the same time, international covenants recognize the integrity of the family unit and indicate that parents have the primary responsibility for the upbringing and development of the child.³⁷ Further, in *Canadian Foundation for Children, Youth and the Law*, a majority of the Supreme Court of Canada considered the *Convention on*

the Rights of the Child and concluded that it did not explicitly require state parties to ban all corporal punishment of children.³⁸

While 196 countries have ratified the *Convention on the Rights of the Child*, as of January 2023, a smaller number – 65 countries – had fully prohibited corporal punishment both in the home and at school. Other countries or jurisdictions within them have passed laws prohibiting force of certain types or in certain contexts. Indeed, the number of states that have implemented such bans has jumped dramatically in the past two decades.³⁹

Nevertheless, some states that have banned corporal punishment have done so through family and civil law bans, reserving criminal assault charges for more serious conduct.⁴⁰ As discussed in section 5.1 of this paper, because the definition of assault in Canada’s *Criminal Code* is based on the non-consensual nature of the contact, there may be greater risk in Canada in removing the section-43 defence, although such concerns could be dealt with by building reassurances into the law.

8 CONCLUSION

In general, advocates on both sides of this debate agree that children should be free from physical abuse and injury. Rather, the disagreement is about the effects of minor forms of physical punishment and the appropriateness of using criminal law to enforce a particular view of what constitutes proper parenting.

Some are confident that prosecutorial discretion and existing common law defences will continue to prevent individuals from being charged or convicted for trivial slaps and spansks or protective restraint. Others fear that parents may face intervention from neighbours or passersby, investigations by police and even imprisonment for limited punishment of their children or for a momentary but ultimately harmless lapse of judgment.

Child welfare and protection laws go some distance toward preventing and detecting child abuse, and a number of public education campaigns exist to encourage parents not to use even minor forms of physical punishment on their children.⁴¹ Given these developments, advocates for the repeal of section 43 say that the provision sends the mixed message that it may be acceptable to strike a child. But those against removing section 43 from the *Criminal Code* worry about the inverse message that, if the provision were to be repealed, criminal prosecution and conviction may result from any physical contact or restraint used against a child.

As with many social issues, there appears to be little agreement in Canada on the acceptability of section 43, a position that is reflected in the divergent views expressed by the Supreme Court of Canada and the United Nations Committee on the Rights of the Child.

NOTES

1. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 43.
2. Section 55 of the 1892 *Criminal Code* reads: “It is lawful for every parent, or person in the place of a parent, schoolmaster or master, to use force by way of correction towards any child, pupil or apprentice under his care, provided that such force is reasonable under the circumstances.” See Canadian Research Knowledge Network, [“The Criminal code, 1982, 55-56 Victoria, chap. 29: together with An act to amend the Canada temperance amendment act, 1888, being chapter 26 of the same session,”](#) Canadiana, Database, 1892, p. 46.
3. [Canadian Foundation for Children, Youth and the Law v. Canada \(Attorney General\)](#), 2004 SCC 4.
4. *Ibid.*, para. 232.
5. Law Reform Commission of Canada, [Assault](#), Working Paper 38, 1984, pp. 44 and 53.
6. *Ibid.*, pp. 44, 45 and 53.
7. Senate, Standing Committee on Human Rights, [Children: The Silenced Citizens – Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children](#), Final report, April 2007.
8. Prime Minister of Canada, Justin Trudeau, [Statement by Prime Minister on Release of the Final Report of the Truth and Reconciliation Commission](#), 15 December 2015.
9. Truth and Reconciliation Commission of Canada (TRC), [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, pp. 319–337.
10. *Ibid.*, p. 105.
11. Two such bills were introduced in 2022. See [Bill C-273, An Act to amend the Criminal Code \(Corinne’s Quest and the protection of children\)](#), 44th Parliament, 1st Session; and [Bill S-251, An Act to repeal section 43 of the Criminal Code \(Truth and Reconciliation Commission of Canada’s call to action number 6\)](#), 44th Parliament, 1st Session.

Similar previous bills exist. See [Bill C-305, An Act to amend the Criminal Code \(protection of children\)](#), 35th Parliament, 2nd Session; [Bill S-14, An Act to amend the Criminal Code and the Department of Health Act \(security of the child\)](#), 35th Parliament, 2nd Session; [Bill C-368, An Act to amend the Criminal Code and the Department of Health Act \(security of the child\)](#), 36th Parliament, 1st Session; [Bill C-329, An Act to amend the Criminal Code \(protection of children\)](#), 37th Parliament, 1st Session; [Bill S-21, An Act to amend the Criminal Code \(protection of children\)](#), 38th Parliament, 1st Session; [Bill S-207, An Act to amend the Criminal Code \(protection of children\)](#), 39th Parliament, 1st Session; [Bill S-209, An Act to amend the Criminal Code \(protection of children\)](#), 39th Parliament, 2nd Session; [Bill S-209, An Act to amend the Criminal Code \(protection of children\)](#), 40th Parliament, 2nd Session; [Bill S-204, An Act to amend the Criminal Code \(protection of children\)](#), 40th Parliament, 3rd Session; [Bill S-214, An Act to amend the Criminal Code \(protection of children\)](#), 41st Parliament, 1st Session; [Bill S-206, An Act to amend the Criminal Code \(protection of children against standard child-rearing violence\)](#), 41st Parliament, 2nd Session; and [Bill S-206, An Act to amend the Criminal Code \(protection of children against standard child-rearing violence\)](#), 42nd Parliament, 1st Session.
12. Senate, [Debates](#), 1 May 2014, 1530 (The Honourable Donald Plett). For further discussion of reasonable physical restraints, see Global Initiative to End All Corporal Punishment of Children, [Legal reform handbook 2009 – Prohibiting corporal punishment of children: A guide to legal reform and other measures](#), February 2009, pp. 10–11. For further discussion of the negative implications of repeal, see Lisa Kelly and Nicholas Bala, “More Harm than Good: Repealing Reasonable Correction Defence Could Backfire,” *The Lawyers Weekly*, 19 February 2016, p. 12.
13. See, for example, Ontario, Ministry of the Attorney General, [“D. 3: Charge Screening,”](#) *Crown Prosecution Manual*, 14 November 2017; and British Columbia, Prosecution Service, [“Charge Assessment Guidelines,”](#) *Crown Counsel Policy Manual*, 15 January 2021.
14. Global Initiative to End All Corporal Punishment of Children, [Legal reform handbook 2009 – Prohibiting corporal punishment of children: A guide to legal reform and other measures](#), February 2009, p. 20.
15. Common law defences are expressly available by virtue of section 8(3) of the *Criminal Code*. Certain statutory defences, though limited in scope, would also remain available, such as those permitting the use of force in self-defence (section 34) or to protect property (section 35). See [Criminal Code](#), R.S.C. 1985, c. C-46, ss. 8(3), 34 and 35.
16. See, for example, [Perka v. The Queen](#), [1984] 2 S.C.R. 232; and [R. v. Latimer](#), 2001 SCC 1.

17. The full maxim is *de minimis non curat lex* and is understood to mean that the law does not care for small or trifling matters. See Jean Hétu, “De minimis non curat praetor : une maxime qui a toute son importance!,” *Revue du Barreau*, Vol. 50, 1990, p. 1065 [IN FRENCH].
18. See, for example, Steve Coughlan, “[Why De Minimis Should Not Be a Defence](#),” *Queen’s Law Journal*, Vol. 44, No. 2, 2019 (CanLII).
19. [R. v. A.E.](#), 2000 CanLII 16823 (ON CA); and [R. v. Palombi](#), 2007 ONCA 486 (CanLII).
20. Hamish Stewart, “[Parents, Children, and the Law of Assault](#),” *Dalhousie Law Journal*, Vol. 32, No. 1, 1 April 2009, p. 23 (CanLII).
21. Physical punishment is prohibited under legislation governing foster care in British Columbia, Alberta, Manitoba, Ontario, Quebec, Newfoundland and Labrador and Yukon. It is also prohibited under legislation governing day care centres in all provinces and territories except Quebec, and under legislation governing schools and education in all provinces and territories, except Alberta and Manitoba. See End Corporal Punishment, [Corporal punishment of children in Canada](#), October 2022.
22. Reasonable and moderate correction was permitted under section 651 of the *Civil Code of Québec* (1980), S.Q. 1980, c. 39, but did not reappear in the *Civil Code of Québec* (1994), S.Q. 1991, c. 64.
23. Toronto Public Health, [National Survey of Canadians’ Attitudes on Section 43 of the Criminal Code](#), September 2003.
24. Tessa Bell and Elisa Romano, “Opinions about child corporal punishment and influencing factors,” *Journal of Interpersonal Violence*, Vol. 27, No. 11, July 2012, pp. 2208–2229.
25. Angus Reid Institute, [Canadians say our moral values are weakening four-to-one over those who say they’re getting stronger](#), Canadian Public Opinion Poll, 13 January 2016, p. 3.
26. Mario Canseco, [Canadians Divided on Physically Disciplining Children](#), Research Co., 24 May 2018.
27. Joan Durrant et al., [Joint Statement on Physical Punishment of Children and Youth](#), Coalition on Physical Punishment of Children and Youth, 2004.
28. See, for example, REAL Women of Canada, “[The Anti-Spanking Gang Gears Up](#),” *REALity*, Newsletter, Vol. 35, No. 1, January 2016.
29. World Health Organization, [Corporal punishment and health](#), Fact sheet, 23 November 2021. See, for example, Joan E. Durrant and Ron Ensom, “[Twenty-Five Years of Physical Punishment Research: What Have We Learned?](#),” *Journal of the Korean Academy of Child and Adolescent Psychiatry*, Vol. 28, No. 1, 2017; Catherine A. Taylor et al., “[Mothers’ Spanking of 3-Year-Old Children and Subsequent Risk of Children’s Aggressive Behavior](#),” *Pediatrics*, Vol. 125, No. 5, 2010; Elizabeth T. Gershoff et al., “Parent Discipline Practices in an International Sample: Associations with Child Behaviors and Moderation by Perceived Normativeness,” *Child Development*, Vol. 81, No. 2, March 2010; Elizabeth T. Gershoff, “[Corporal Punishment by Parents and Associated Child Behaviors and Experiences: A Meta-Analytic and Theoretical Review](#),” *Psychological Bulletin*, Vol. 128, No. 4, 2002; and Murray A. Straus, David Sugarman and Jean Giles-Sims, “[Spanking by Parents and Subsequent Antisocial Behavior of Children](#),” *Archives of Pediatrics and Adolescent Medicine*, Vol. 151, No. 8, August 1997.
30. See, for example, Robert E. Larzelere and Brett R. Kuhn, “[Comparing Child Outcomes of Physical Punishment and Alternative Disciplinary Tactics: A Meta-Analysis](#),” *Clinical Child and Family Psychology Review*, Vol. 8, No. 1, April 2005. See also Diana Baumrind, University of California, Institute of Human Development, [Does Causally Relevant Research Support a Blanket Injunction Against Disciplinary Spanking by Parents?](#), Address to the 109th Annual Convention of the American Psychological Association, 24 August 2001.
31. Determining the prevalence of corporal punishment can be challenging due ethical constraints in data collection and the possible underreporting of abusive behaviour to police, among several other factors.
32. Loanna Heidinger, “[Profile of Canadians who experienced victimization during childhood, 2018](#),” *Juristat*, Statistics Canada, 12 December 2022.
33. Statistics Canada, “[Table 11: Self-reported experiences of childhood victimization by gender and selected characteristics of victim, Canada, 2018](#),” *Juristat*.
34. United Nations (UN) High Commissioner for Human Rights, [Convention on the Rights of the Child](#), 20 November 1989, art. 19(1):

19(1) States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

35. UN Committee on the Rights of the Child, [Concluding Observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session \(17 September – 5 October 2012\)](#), 6 December 2012, paras. 44–45.

In response to Canada’s most recent reports, the Committee stated that it was gravely concerned that corporal punishment is condoned by law in the State party under section 43 of the *Criminal Code*:

45. The Committee urges the State party to repeal Section 43 of the Criminal Code to remove existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against all age groups of children, however light, within the family, in schools and in other institutions where children may be placed. Additionally, the Committee recommends that the State party:

(a) Strengthen and expand awareness-raising for parents, the public, children, and professionals on alternative forms of discipline and promote respect for children’s rights, with the involvement of children, while raising awareness about the adverse consequences of corporal punishment;

(b) Ensure the training of all professionals working with children, including judges, law enforcement, health, social and child welfare, and education professionals to promptly identify, address and report all cases of violence against children.

36. UN Committee on the Rights of the Child, [Replies of Canada to the list of issues in relation to its combined fifth and sixth periodic reports](#), 8 April 2022, para 29.

37. Under the UN’s *International Covenant on Civil and Political Rights*, “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State.” See UN High Commissioner for Human Rights, [International Covenant on Civil and Political Rights](#), 16 December 1966, art. 23(1).

Under the *International Covenant on Economic, Social and Cultural Rights*, “[t]he widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.” See UN High Commissioner for Human Rights, [International Covenant on Economic, Social and Cultural Rights](#), 16 December 1966, art. 10(1).

In addition, the *Convention on the Rights of the Child* states: “Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child.” See UN High Commissioner for Human Rights, [Convention on the Rights of the Child](#), 20 November 1989, art. 18(1).

38. [Canadian Foundation for Children, Youth and the Law v. Canada \(Attorney General\)](#), 2004 SCC 4, para. 33.

39. End Corporal Punishment, [Countdown to universal prohibition](#).

40. Sweden, for example, has legislated against the physical punishment of children in its *Parenthood and Guardianship Code*. See Adamira Tijerino, *Under Scrutiny: Corporal Punishment and Section 43 of the Criminal Code of Canada*, Draft document, BC Institute Against Family Violence, 2001, section V; and End Corporal Punishment, [Corporal punishment of children in Sweden](#), February 2020.

41. See, for example, Government of Canada, [What’s Wrong with Spanking?](#)