

DEBATE ABOUT PARENTS' RIGHT TO SPANK CAUSES DIVISIONS AMONG MDs

Lynne Cohen

In Brief • En bref

Does spanking involve child abuse, or is it an acceptable form of discipline in Canada? Section 43 of the Criminal Code allows "reasonable" force on the part of a teacher or parent as a disciplinary measure, but an advocacy group believes that this section of the code should be repealed. However, a recent court case indicates that abolition of corporal punishment is not a black-and-white issue.

La fessée constitue-t-elle de la violence faite aux enfants ou s'agit-il d'une forme acceptable de discipline au Canada? L'article 43 du Code criminel permet à un parent ou à un enseignant d'utiliser de force «raisonnable» comme mesure disciplinaire, mais un groupe de défense est d'avis qu'il faudrait abroger cet article du code. Une décision récente des tribunaux indique toutefois que la question de l'abolition des châtiements corporels est loin d'être claire.

Is spanking child abuse, or is it an acceptable form of discipline in Canadian society? Recent debate indicates this is not a black-and-white issue.

Under Section 43 of Canada's Criminal Code, it is legal "for every schoolteacher, parent or person standing in the place of a parent [to use] 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."

In other words, says a 30-page report by the Repeal 43 Committee, which comprises 15 physicians, lawyers and educators who want to change the law, the code allows parents and teachers to spank, shake, slap, strap or even kick a child in their care, provided the amount of physical force used is "reasonable." According to a committee report submitted to the federal government, "reasonable" has been interpreted

broadly by the courts to allow bruising, abrasions, swelling, nosebleeds and even chipped teeth.

The issue recently received front-page coverage in Canada after an American man was acquitted of assault by a London, Ont., court. David Peterson was charged after a London woman called police when she saw him spank his daughter outside a local restaurant. In April the charge was dismissed by a judge who ruled: "This is not a court of social justice. It is the law that a parent may physically discipline a child."

Peterson had been arrested last summer and spent a night in jail after being strip-searched and fingerprinted. He was not released until his wife posted bail. The judge chastised the woman who called police, saying she was wrong to tell Peterson he had been breaking the law. "I think a large public debate sort of landed on us," Peterson told reporters. "We were just passing through and we stepped into it."

Abolition of Section 43 is the

only goal of the Repeal 43 Committee, which was formed a year ago. Members argue that although the Criminal Code does not specifically condone the beating of children, it provides a powerful legal defence that has been used successfully in severe cases at least 19 times since the turn of the century, and most recently in the Peterson case.

If Canada were to repeal Section 43, it would follow the lead of several European countries, including Norway, Finland, Sweden and Austria, which have banned corporal punishment. Two others — Germany and Ireland — plan to proceed with similar legislation.

However, groups interested in children's health and social interests have not unanimously endorsed the goal of the Repeal 43 Committee. The British Columbia section of the Canadian Paediatric Society (CPS) strongly supports the initiative, and has urged the federal government to change the code. But like other national organizations, the CPS itself has not taken a position on the issue. The matter is not simple, say those who oppose or who refuse to support the repeal.

"Whilst the abolitionist lobby pretends to hold the high moral ground in terms of civil rights, much evidence, theory and clinical experience in child development suggests that their proposals are not in the best interest of all children," wrote Dr. Mervyn Fox, last year's chair of the CPS's Psychosocial Paediatrics Committee, in the December 1994 issue of the *CPS News Bulletin*.

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"The Canadian Paediatric Society would lose credibility with its membership and the public were it to advocate abolition of Section 43 of the Canadian Criminal Code. The resulting publicity would drive families away from paediatricians as primary caregivers. . . . The issue is potentially divisive and likely to lead to resignations from the CPS."

He may be right. During the well-publicized Peterson case, proponents of repeal took heavy criticism on some radio phone-in programs. "They said, 'Take your social worker stuff and fly [away] with it,'" Kerry McCuaig, executive director of the Ontario Coalition for Better Child Care, told the *Globe and Mail*. "[They said] 'the only thing that calms this kid down is a spanking' or 'Stay out of my personal relationships.'"

In his article, Fox cites studies that indicate the "conventional use of corporal punishment" does not lead to antisocial aggression in children.

Although the CPS is not considering supporting repeal, Dr. William Mahoney, current chair of the Psychosocial Paediatrics Committee, says it is actively trying to stop child abuse. "We are preparing recommendations for practising doctors to help their patients learn appropriate child-disciplining techniques," he says. "We want to give pediatricians information that is useful for giving advice to patients and that is based on available literature and studies and . . . common sense."

Mahoney believes that changing

the Criminal Code wouldn't have much impact on the behaviour of adults because, in some cases, the issue involves very entrenched beliefs that spanking or slapping are perfectly acceptable child-rearing techniques. Beatings are "still going to happen," he laments. Changing the code could lead to "a lower frequency [of child beatings], but increased severity," he warns.

But Mahoney notes that many par-

ing. "Parents with poor frustration tolerance and impulse control, little social support and an immature concept of parental commitment may abuse their children by smothering them with pillows," he says. "In such cases the pillow is but the instrument of abuse, and abolishing spanking is no more logical than abolishing pillows."

Poppycock, says Dr. Marie Hay, a BC pediatrician who belongs to the Repeal 43 Committee. "I was beaten to hell when I was a kid, and I am very involved in child protection now," says Hay, chief of pediatrics at British Columbia's Prince George Regional Hospital and medical director of Prince George's Northern Child and Family Clinic, a community-based ambulatory centre.

"This is a burning human-rights issue and also a number-one public-health issue," she argues. "Before I die, I would

like to see Section 43 repealed. I'm looking at a generation [ahead] . . . [and] I don't care what this costs me."

She says her attempts to influence the CPS, which she belongs to, have already cost her a great deal of frustration. "For 3 years I've tried to get this issue on the agenda of the CPS," she says. "It has been an uphill battle. The CPS is against repeal because [leaders] are absolutely terrified of a public backlash."

She disagrees with Fox that the CPS support for repeal would split the organization: "There are already so many people onside. I think it is reprehensible that we as [organized]

London Free Press photo



David Peterson and his wife attend news conference following judge's ruling

ents are reluctant to use corporal punishment because there are other safeguards besides the Criminal Code. Children's Aid agencies will investigate almost any family if there has been a report of violence or emotional abuse, and more people are willing to report suspected abuse. Marlene Timperio, the woman who called police in the Peterson case, did just that. She said she was only trying to offer parental advice after seeing him spank his daughter, but her first words to him were: "That's against the law."

Fox believes that a parent's personality and temperament play a much stronger role in child abuse than spank-

pediatricians are not onside. I think it is unconscionable."

Hay says she is upset that Fox's article was published along with a letter she had sent to the *Bulletin* and a short abstract of the Repeal 43 Committee's 30-page report. "I sent them the 30 pages and they cut it down to three paragraphs," she complains, "and they never told me that they were going to print my letter."

The issue has cost Hay some public condemnation. In 1993 she asked the Prince George City Council to make Prince George a "spanking-free zone," just "like you make cities nuclear-free zones."

She said the idea was to "make a

statement" while raising money for educational programs to teach parents more positive ways to discipline children. "The backlash here was enormous," she says. "People tried to report me to the college [of physicians and surgeons] for malpractice. The vitriol in the newspapers went on for 3 months. It was quite frightening."

No disciplinary action ensued, but the local daily, the *Prince George Citizen*, ran about 15 feature articles, editorials, commentaries and letters, many of which condemned Hay's idea and lauded council's 8-0 vote to reject her plan. In one commentary, a member of the clergy complained that Hay's proposal smacked "of early

anarchy," and went on to imply that society's freedom was at stake.

Conversely, the Repeal 43 Committee believes that keeping this section of the code intact is a threat to Canada's democratic values. In its report, the committee says corporal punishment contravenes both the Canadian Charter of Rights and Freedoms and the United Nations Convention on the Rights of the Child.

"Section 43 allows punishment causing bruising and contusions," it says. "It allows children to be struck with belts and other objects. It is the relic of a bygone age and has no place in a democratic society that respects and values children." ■

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Dr. Doug McCreedy, School of Business and Economics, Wilfrid Laurier University, Waterloo ON N2L 3C5; tel 519 884-1970, fax 519 884-0201

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American Association of Critical-Care Nurses, 101 Columbia, Aliso Viejo CA 92656-1491, tel 714 362-2000, fax 714 362-2020

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12th European Conference on Biomaterials, Instituto de Engenharia Biomédica, Praça Coronel Pacheco, 1, 4000 Porto, Portugal; tel 011 351 2 208-7131, fax 011 351 2 208-7310

Sept. 13-16, 1995: Canadian Transplantation Society and Canadian Association of Transplantation Annual Meeting

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Collette Birks, director of communications, Quebec Transplant, 1560 Sherbrooke St. E., Montreal QC H2L 4K8; tel 514 876-6768

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Anna Lee Chabot, head, Meetings and Assemblies Section, Office of Fellowship Affairs, Royal College of Physicians and Surgeons of Canada, 774 Echo Dr., Ottawa ON K1S 5N8; tel 613 730-6201, fax 613 730-8252

Sept. 14, 1995: Biomedical Communication Workshops (presented by the Canada Chapter of the American Medical Writers Association and held in conjunction with the Royal College of Physicians and Surgeons of Canada Annual Meeting)

Montreal

Ann Bolster, Publications Department, Canadian Medical Association, PO Box 8650, Ottawa ON K1G 0G8; tel 613 731-8610 or 800 663-7336, ext. 2117; fax 613 523-0937; abolster@hpb.hwc.ca

Sept. 20, 1995: Symposium on Advances in Reproductive Endocrinology and Infertility (precedes the Canadian Fertility and Andrology Society Annual Meeting Sept. 21-23)

Montebello, Que.

Canadian Fertility and Andrology Society, 409-2065 Alexandre de Sève St., Montreal QC H2L 2W5; tel 514 524-9009, fax 514 524-2163