



Repeal 43 *criminalizes traditional loving & firmly guiding parenting*, while *inflicting increased harms* including child abuse and violence rates.

We advocate *Protecting Children, Family & Society* by placing good sense ahead of harmful ideology.

www.Keep43.ca

On March 7, 2017, Hon. Senator Murray Sinclair, during Second Reading, delivered a speech in support of Bill S-206: An Act to amend by Repealing Section 43 of the Criminal Code inclusive of the Supreme Court's 2004 Rulings defining the same.

On behalf of the 82% of Canadian parents with preteen children who constructively use minor force in child-rearing, the Keep 43 Committee of Canada respectfully presents:

An Analysis and Response to Hon. Senator Murray Sinclair's Speech before the Senate

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Notes:

The Senator's Speech is in this font. Except for minor reformatting, nothing has been edited or altered so as not to be prejudicial to his statements.

[Keep 43's responses appear where appropriate in this font](#)

Hon. Senators:

Spanking bans have been around for decades, and some have been objectively researched. The evidence, sadly, is becoming overwhelming and undeniable that wherever non-abusive spanking is banned, and the longer it has been banned, the following harms persistently manifest:

- (1) Increased rates of serious assaults on children,**
- (2) Increased child & youth violence rates,**
- (3) Increased bullying / violence at school,**
- (4) Increased CAS/CPS seizures of children from safe & loving homes, which facilitates increased trafficking into the foster-care & adoption industry,**
- (5) Increased criminal prosecution of good parents, which facilitates parental alienation (another form of child abuse) and serious developmental problems from children raised in loveless homes,**
- (6) Increased mental health, behavioral & emotional disorders requiring medication or hospitalization,**
- (7) Increased substance abuse & drug-induced death rates,¹⁴**
- (8) The dissolution of the "Rule of Law" which manifests in such measures as increased child rape rates,**
- (9) Criminalization of parenting is one material factor deterring childbirths and collapsing societal fertility rates to extinction levels. This costs countries the loss of up to one-half childbirth per female.¹³**

Statistically, supporting "Repeal 43" actually supports the above nine correlated harms. The issue, then, is not whether we want to ban spanking or not. The issue is, if we do want to ban spanking, whether we want to do it with the same rashness and unpreparedness that has led other countries to increased violence and child abuse.

We need more debate and deliberation on this issue, as only one thing is clear: no spanking ban to date has worked; every spanking ban to date has severely backfired; and Senator Sinclair's proposed spanking ban is no different from every other spanking ban that has failed.

"Keep 43" believes that promoting these harms are not Canadian values, and that we should minimize these harms on Canadian society. Thus, we defend Canada's current spanking laws. They are, quite frankly, the most balanced laws on the planet. All of us should be proud of that. We've become a model of reason for the whole world to follow. Let's not turn from that and follow others down the path to destruction.

Hon. Murray Sinclair: Honourable senators, I am pleased to speak to Bill S-206, an act to repeal section 43 of the Criminal Code.

I support this bill and have agreed, on the retirement of Senator Hervieux-Payette, to become the new sponsor, because I believe in the right of children not to be assaulted and in the need for the law to recognize that right as fully as it does for every person in this country. You must keep in mind that section 43 only applies to situations where a child has been assaulted, and accordingly it has limited application.

Senator Sinclair simply misunderstands or misstates the law. Section 43 has nothing to do with assault. It has to do with spanking. It protects parents when they have to use spanking as a back-up to enforce other consequences like timeout, and to adjust defiant, dangerous or anti-social behaviours.

If Senator Sinclair is trying to prevent assault, the Supreme Court already did that (*Canadian Foundation for Children, Youth and the Law v. Canada / Attorney General*). It limited Section 43 to reasonable, non-injurious spanking. If Senator Sinclair is trying to clarify the law, he should read some Supreme Court opinions. The Court already did the job for us.

But if Senator Sinclair is suggesting that reasonable spanking is assault, then he also would have to say that:

**Time-outs and being sent to the bedroom are “forcible confinement” or “imprisonment”
Withholding an allowance and removal of privileges are “theft”, and
Vaccinations are “Stabbing children with sharp weapons”**

And worse, if Senator Sinclair is using this bill as a veiled attempt to ban even reasonable spanking (which is what this bill does), then we have a huge problem on our hands. We cannot afford, either ethically or financially, to criminalize 82% of parents. We cannot afford to subject 82% of families to discretionary government, which almost always hurts minorities first. And we cannot afford to break up 82% of families just because people disagree over parenting philosophies.

As we grow as a society, every generation will do things differently because societies change as more information is available to us. On its website, Justice Canada has observed the following:

In the past, it was acceptable to hit people to make them obey. . . . children, students, servants, and employees might, for example, be whipped to punish them or force them to do certain tasks. . . . Over the last century, society has changed and the law has changed too. Employers are no longer allowed to hit employees - ever. School boards have banned teachers — throughout Canada — from hitting students

Parents are not employers or government workers. The parent-child relationship is unique. There are many aspects to parenting that are inappropriate in any other context. For example, it would not be appropriate to force your neighbour to bed at 8 sharp, demand they eat their vegetables, wash and wipe and change them, or check their bottom to be sure they're clean. It is perverse logic to advocate prohibiting operations of parenting on the basis of what is acceptable interaction with a neighbour. Anyone who has actually raised children should intuitively recognize this.

Do you propose children must be treated as adults? We address anti-social adult behaviour with imprisonment. In countries that have banned spanking, they've had to go there, too. They've had to imprison more children because parents are not allowed to enforce other discipline methods with spanking. If a child refuses to sit in timeout, there's really nothing practical a parent can do about it if spanking is banned.

In 1991, Canada committed to protecting children from all forms of violence and to act in the best interests of children when we signed on to the UN Convention on the Rights of the Child. Since then, the UN has called for the repeal of section 43 of our Criminal Code three times and has expressed "grave concern" about our inaction as a country on this issue.

In 2006, the UN Secretary-General's Study on Violence against Children concluded that all governments are ultimately responsible for the protection of children and to fulfill their human rights obligation. States were called upon to end justification of violence against children, whether it be accepted as a tradition or disguised as a discipline.

The U.N. does a lot of good; but it is wrong here.

The United Nations Convention on the Rights of the Child (1989) Article 37 states: "*No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.*"

Constructive discipline, as narrowly defined by Canadian law, simply is not targeted by the U.N. Convention. The Committee that monitors the Convention wants the Convention to ban spanking; but the Convention does not. (If it did, we would not have signed it; and neither would have many other countries.) Show us the anti-spanking clause, Senator Sinclair. It's simply not there.

What does exist is the trauma countries now are facing because of the U.N.'s mistaken interpretation of the Convention. Let's look at what's happening in countries that have banned spanking. Take Sweden, it's youth crimes and child abuse both have risen over 519% per capita since it banned spanking in 1979.⁹ Children are not taught firm boundaries and parents get so frustrated with their kids that they actually do assault them more often.

Now that all its unspanked youths are adults, Sweden has become the rape capital of the world.¹⁰ The U.N. recently announced that Sweden is likely to be Europe's first third-world country. Ironically, and sadly, the U.N.'s spanking ban is partly to blame.

The U.N. has four mandates. None of them has ever been to impose any particular brand of parenting style on families. "*There is no section devoted to ridding the world of spanking in its entire 13,338-word length*" of the Convention. ¹

In 2007, the Senate itself recommended the repeal of section 43 by April of 2009.

In 2015, the Truth and Reconciliation Commission called for the same action.

It's now time for us to actually do something about it.

Sweden was the first country to prohibit the use of physical correction of children 37 years ago.

And as a result of the 1979 ban: youths growing up under Sweden's bans were 519% more violent than the previous cohort raised with spanking. By 2010, child-on-child violence was up 2,555% from 1981.

Sweden's rate of serious assaults on children by their parents doubled in the first year after the spanking ban, rose to triple the US per-capita rate eight years out,⁵ and by 2010 it was up 2,200%.⁶

The last time this subject came up in the upper chamber in 2013, 33 other countries had banned this practice. Now, in 2017, only 4 years later, 52 countries have prohibited the use of force for the purpose of correction on children, and 54 additional countries have committed to doing so.

This is deceptive on several fronts. The use of consequences is a nuanced science. Some of those countries don't enforce their bans. They seem to have just passed bans to appease the U.N. Other countries simply banned clear abuse, like boxing the ears and caning. But anti-spanking proponents have touted these as spanking bans.

Still others of these countries had no definitions of what constructive physical discipline was, and they rightly banned severe beatings, whippings, and hitting, which was violent and harmful.

However; they overreacted by banning everything. What they should have done was provide specific objective tests to differentiate between constructive consequences and harsh physical discipline as Canada so excellently accomplished in 2004.

Finally, just because many countries make the same error, does not give license for Canada to do the same. Over 50 countries ascribed to the 20 years of research that proved Jews were the cause of all social ills. Would you today adhere to that philosophy because more than 50 countries once did?

The growing body of research tells us that 75 per cent of physical abuse cases involving children in Canada arose from incidents of physical punishment by parents. People who believe they have the right to hit children clearly have trouble controlling themselves when doing so.

This is an oft-cited fallacy. Most people have been spanked. Statistically, probably most of you have been spanked. But most people have not been abused.

Actually, the statistics suggest that a spanking ban would only exacerbate Senator Sinclair's fears. In countries where spanking has been banned, abuse of children has consistently and dramatically risen. Parents become so frustrated with their children that they simply beat them more often.⁷ It's been happening for almost 40 years, since Sweden banned spanking.

Abusers will abuse regardless of any law and serious assault rates on children RISE substantially where spanking is banned,

By contrast, consistently loving parenting styles which universally rely on occasional and moderate spanking as a backup enforcement to other methods (called by researchers "authoritative parenting") are the least likely to abuse their children.²

In addition, the Law Commission of Canada estimated that physical abuse of children cost the economy of Canada billions of dollars annually.

Then the Law Commission should very much want to keep Sec.43, as all spanking-banned environments objectively studied have exhibited notable increases in physical abuse of children.

We did not have the data to cost out the increase in serious child abuse that Repeal 43 is expected to produce in Canada. However; we objectively calculated the increased cost to Canadian society of youth violent crime, based on the assumption that Canada's spanking ban would achieve the same increased rates of youth violence that Sweden and Austria experienced:

***"The increased cost per annum to society is estimated at ... \$30.4B (in 2016 dollars). With Canada's 35 million people, this would represent an increased annual cost of approx. \$900 (2016 dollars) for every man woman and child."*⁴**

...and that is the cost of only ONE of the nine known harms Repeal 43 will inflict on Canada, if history is any guide.

Research shows that even mild physical punishment of children predicts poorer mental health, negative parent-child relationships, increased antisocial behaviour and increased risk of violence toward intimate partners and children in adulthood.

This opinion is entirely untrue and repeatedly debunked.

There is NO sound research which shows spanking, in the limited fashion allowable under Canadian law produces any net negative effect. None, it doesn't exist. There are actually only 4 clinical studies of spanking that have ever been done. FOUR. And they all indicated that spanking was more effective than any other discipline method at enforcing timeout (i.e., a backup to timeout). There is not one clinical study of spanking that supports an anti-spanking perspective. Just as 30 years of advocacy research "proved" tobacco causes no harms, the same tactics produce slanted science to denigrate parenting philosophies that those scientists oppose.

And there are many researchers on the other side of Senator Sinclair. For example: Dr. Baumrind (UC Berkeley), Dr. Larzelere (OK State U), Dr. Gunnoe (Calvin C, MI), J. Fuller (Akron School of Law, OH)

Dr. Baumrind's decades-long research is universally recognized as the best comprehensive study of parenting on the planet. It concludes,

*"We found no evidence for unique detrimental effects of normative physical punishment. A blanket injunction against its use is not warranted by the evidence. In the absence of compelling evidence of harm, parental autonomy and family privacy should be protected."*¹⁶

Dr. Gunnoe's research confirmed,

*"that children raised with non-abusive spanking performed better than those who weren't in a whole series of categories, including school grades, an optimistic outlook on life, the willingness to perform volunteer work, and the ambition to attend college ... And they performed no worse than those who weren't spanked in areas like early sexual activity, getting into fights, and becoming depressed"*¹⁵

Whereby she concludes,

*"The claims made for not spanking children fail to hold up. They are not consistent with the data"*¹⁵

Iron Gate Research concludes,

*"There is a statistically significant link between children raised with positive parenting styles being sanctioned for hitting and bullying other children at school. This suggests that the spectrum of parenting styles that employ moderate spanking as a back-up to other methods produce on-balance, children less inclined to behave violently towards other children than the spectrum of parenting styles which exclude consequences."*¹⁷

The Public Health Agency of Canada, the Department of Justice and provincial governments all agree.

In a Global News poll conducted in 2016, more than 60 per cent of Canadians agreed that spanking should be illegal. The Children's Hospital of Eastern Ontario leads a coalition of over 580 national organizations and advocates. That coalition released a Joint Statement on Physical Punishment of Children and Youth and also called for the repeal of section 43.

Polls are very dependent on WHO is asked. People who do not have, do not want or have no experience raising a child, really shouldn't be polled; they just have little practical experience with the issue. Consider that 82% of parents with preteen children do at some time use minor force in disciplining (2012 poll, IGR). Is it logical for them to want to legislate harms on their own families?

Canadian attitudes are changing, honourable senators. Research evidence, the voices of experts and child advocates, as well as public opinion, affirm that the physical correction of children, which section 43 protects, is no longer appropriate and represents a more archaic time when we were unaware of the damage that it caused.

For those concerned about protecting parents, even without section 43, the law still provides sufficient protection for them, for teachers and for guardians who have to apply physical force to children in minor cases or when socially acceptable and legally necessary. It will not allow them to hit kids under the guise of correcting them, however, and it never should do so.

The imaginary "protection" is false. Criminalization is just what it says. A case in point: two years after Sweden's 1979 spanking ban, Swedish child protection authorities apprehended per-capita 2,644 children vs. 77, the median of the four surrounding countries. That's 3,400% of median. It is not reasonable to believe that Swedish parents are 34 times more abusive than parents in surrounding countries¹¹. In Canada, Children's Aid Societies have morphed into a quota and revenue-based industry²⁰. If not enough children need actual protection, caseloads and revenue drops. As Sweden proved, spanking bans that make most families the target for CAS apprehensions, provides a fertile hunting ground.

The bans of Norway and Germany have also been studied and show the same trends of heightened seizures of children from good homes. This is especially problematic for our minorities. The sad truth is, when you ban something that almost all people do at some point, enforcement of the law becomes discretionary. In turn, minorities tend to bear the brunt of enforcement. Discretionary government simply leads to a racist enforcement. We are better than that.

Honourable senators, you and I and everyone else in this country, except children, have the right not to be assaulted. No one has the right to hit us or to push us or to twist our arms or to lock us in a room or to tie us to a chair. Yet, we allow people to do that to children. The damage to children is immeasurable. I have heard their stories.

Again Senator Sinclair makes a strawman argument: hitting, pushing, twisting, locking and tying are all illegal under the law he's trying to repeal. The law allows only for moderate constructive use of spanking in behaviour management, not abusive force. It does raise the point: why not in the same way define all other consequences? Mental, emotional and verbal abuses are just as devastating, and can cause much deeper scars that never heal.

At one Indian residential school in Alberta, a teacher was charged with assaulting a student by punching him three times in the face, causing serious injury. The teacher had been convicted of assault at trial but was acquitted on appeal by a court which held that the degree of force that he used was reasonable. That case set the tone for how all children in residential schools were treated thereafter.

In the Fort Albany Indian residential school, I was told of children who when caught speaking their language or misbehaving in any way were tied to an electric chair and had an electric current run through their bodies until they twisted and screamed. I heard stories of children who ran away from the schools being stripped naked and whipped, in a room filled with other students, to teach them all a lesson. Some ended up in school-run infirmaries because of their injuries, with no one standing up for them.

The violence that indigenous children experienced at the hands of their guardians at those schools became so much a part of their lives that it is often reflected in the way that they came to treat their own children. Residential schools in this country are clear evidence that child violence begets parental violence. Hitting children to change their behaviour simply does not work.

These are pure strawman arguments. Senator Sinclair describes activities which are already illegal under existing law and would be successfully prosecuted today. Sec.43 does not allow for these treatments, as the Supreme Court held in 2004.

It is easy for us to agree that such excessive violence as I have told you about is unacceptable, but some think that something less might be okay.

So does this mean, for example, since locking a child in a cupboard is illegal, placing them in a five minute timeout or sending them to their room – being lesser versions of a confinement punishment – must then also be illegal? That’s what this fallacious logic would indicate.

This is why nothing in behaviour management is “Black and White”. There are spectrums in each approach that, if used correctly are highly beneficial, but taken to extreme are harmful.

It is true that not all assaults that children experience are of the magnitude that we heard about in Fort Albany. "Assault" is, after all, simply the application of force, no matter how small, to another person without their consent, but we must not forget that minor touching is not criminalized anyway, on the principal of de minimis. If it is something so minor, it is unworthy of the criminal's law attention and sanction.

That's exactly why Section 43 exists. It exists to protect de minimis touching. (Again, Mr. Sinclair, you need to better appreciate the Supreme Court's 2004 case. The issues you raise have been settled now for 13 years.) If we repeal Section 43, de minimis discipline absolutely would be prosecuted ¹⁸. Senator Sinclair has cited nothing to the contrary.

The law also recognizes that some applications of force are socially and legally acceptable. In order to get someone's attention, for example, sometimes you have to touch them on the shoulder or on an arm. Engaging in a boxing match or body checking in hockey are not assaults on the basis of consent. Accidental touching is not illegal, nor is the use of reasonable force to defend or protect yourself or another person or even your property.

Section 43 says that if you assault a child for the purpose of correcting a child's behaviour, you have a special defence if you use reasonable force. Society is beginning to accept that no amount of force is reasonable.

Sec.43 does not anywhere say assault. This is once again an attempt to inflame and weaponize what should be a rational, logical and fact-based discussion.

Children are the most vulnerable people in our society. They don't vote. They cannot influence political, social, legal or economic change. They are not recognized as citizens with equal human rights and civil rights to adults. They are considered legally incompetent.

We agree that children need to be protected from strangers. Why do we think, therefore, that they do not need to be protected from their own parents or teachers or guardians or from foster parents or social workers or jail guards? The fact is that they do. It is up to us, as grandfathers and grandmothers, as aunts and uncles and as the guardians of wisdom in this society, to do this by amending this law.

It is time for us to recognize that children are totally dependent on adults for their basic needs. When their rights are violated, their lack of power renders them incapable of resistance or of taking action. Their vulnerability also causes them significant emotional and mental harm, precisely because correctional assaults are inflicted on them by adults that they depend on for protection, for love and for emotional well-being.

Children also have a right to learn how to become respectful citizens. But that right, for many children, has been violated by governments that have banned spanking. Now, the fate of too many children in Sweden and other countries has become violence, rape, and prison.

Children definitely are dependent on their parents for everything to raise them into well-adjusted, morally upstanding, loving and productive members of society.

Part of instilling a moral construct is disciplining.

Parenting styles that constructively use consequences produce developmentally better outcomes than those that don't. The largest real-time study of the effectiveness of physical discipline (18,000 minors) shows it is highly effective (18% recidivism, 82% behaviour adjustment on a behaviour-specific basis) in the long run. ³ There has been no real time data showing any other consequential type having a better effectiveness rate than this. NONE. That explains why parenting systems that correctly use spanking fare best, and why countries that ban it repeatedly experience a series of harms on children, family and society.

The TRC found that the use of force for the purpose of correction in residential schools caused profound and long-lasting impacts that continue to reverberate within indigenous families and communities today. This cycle of violence has been linked to high rates of children in the child welfare system, the over- incarceration of indigenous people and to high rates of violence within communities, including unconscionably high suicide rates.

Surely this is true and inexcusable. However, the current law, and the definitions of which are protested below, do not allow for any of the physical abuses that went on in that horrific era. Nor do the laws allow for the pedophilia, child rape, neglect, emotional, psychological trauma, parental alienation, and other abuses that went on – all of which in sum total have contributed to the harms correctly spelled out above.

In 2004, the Supreme Court of Canada ruled on section 43. Unfortunately, their reasoning has to be discerned by reading four different judgments involving nine different judges. That's another reason why Parliament needs to act. The question of whether or not children have a lower protection from assault should not be left to the general public to parse and to understand four separate Supreme Court of Canada reasons. To guide how force can be used to correct a child, the Department of Justice has summarized that Supreme Court ruling with the following principles:

One, the use of force to correct a child is only allowed to help the child learn and can never be used in anger.

Two, the child must be between 2 years of age and 12 years of age. In other words, section 43 is not available if the child is under 2 because they don't understand or over 12 years of age because there are better means of correcting them. That means, for example, that you can never hit a teenager.

Three, the force used must be reasonable, and its impact can only be transitory and trifling. If you actually hurt the child, section 43 is not available to you.

Four, even if the amount of force used is reasonable, it cannot be inhumane or degrading.

Five, the assailant must not use an object, such as a ruler or a belt, when assaulting a child.
Just to be clear, the Supreme Court's rulings have been substantially misrepresented: They do not refer to assailants, and do allow for assaults of any kind.

Six, the assailant must not slap or hit the child on the face or in the head.

Seven, the seriousness of what caused the action by the parent or what the child did is never an excuse. It is absolutely irrelevant.

Eight, using reasonable force to restrain a child between 2 and 12 may be acceptable in some circumstances.

Nine, hitting a child in anger or in retaliation for something a child did is not considered reasonable and is against the law.

Finally, teachers cannot strike a child. However, they can use reasonable force to remove children from a classroom and guide them to where they have to go or be taken.

All of this points to one very clear conclusion: The law of hitting children is in a mess, and it calls out for reform.

No, this is simply a definition of what's reasonable. It helps everyone--courts, parents, everyone--to sort out abuse from spanking. We use such reasonableness tests all the time in the law, because they help. They recognize that life isn't black and white. Well, neither is childrearing. To suggest otherwise is not just unrealistic, it will be costly and unethical.

As an expert in this field, I might add that the Department of Justice rulings were correct based on solid science. This provides Canada with arguably the best laws on the planet in this regard, and in our consultations with other governments, we have been recommending that they consider our Canadian definitions as a template.

As research continues to mount that spanking bans harm children and societies, we are reaching a crescendo whereby governments are now considering reversing their bans and replacing them with common-sense optimally balanced laws as Canada has.

This bill is not without opponents, as the previous failures of it to pass attest, despite its widespread public and professional acceptance. Some groups oppose the ban on physical punishment, such as Family First, out of New Zealand, because they say, since similar laws prohibiting the striking of children were introduced in 2007 in that country, there has been an increase in children diagnosed with emotional and behavioural problems. Law-abiding parents have been targeted as criminals, and levels of abuse have not declined.

"levels of abuse have not declined" is a complete misrepresentation of that research. ⁸

What it *ACTUALLY* showed was that serious assaults on children advanced every year since the 2007 ban. By 2013, serious assaults on children had already doubled. In neighboring Australia (where spanking is a commonly used consequence), child abuse rates peaked in 2008 and have declined since then. New Zealand's per-capita child abuse rate is now *triple* Australia's rate.

No evidence has ever been found showing any long-term, positive benefits of hitting children. More reliable research shows that emotional and behavioural problems increase when children are hit, not when they aren't.

This is untrue. Again, there are only 4 clinical studies of spanking, and they all provided results favorable to spanking. What Senator Sinclair is referring to are largely survey studies that have a host of problems, like confirmation bias. For years now, professional methodologists have decried this problem in the child-discipline research, as 83% of such research is methodologically unsound. It's a common, known problem in the field. ¹²

Contrary to Family First's assertion, a 2013 New Zealand report by police authorities showed that there had only been eight prosecutions of a parent in the six years after the law had been reformed.

What is conveniently omitted here is the number of arrests and interventions; that caseloads exploded from 90,000 to 150,000, as did the number of child apprehensions which tore up families and destroyed children's lives.

Other groups claim that section 43 provides a defence to parents, caregivers and teachers against the charge of assault. If that ever happened it would be by sheer luck, given the vague and confusing state of the law of assaulting children. Three judges in a 2004 Supreme Court decision ruled that section 43 should be struck down because it violated the equality of children, and because the defence of hitting children where it is "reasonable under the circumstances" is constitutionally vague. They found there are other alternative and sufficient defences available to protect parents.

It is not only the law that needs to change to protect all children. If parents are using corrective force to discipline children, then those parenting practices need to change, too.

Criminalization of authoritative parenting styles forces everyone into the positive-permissive-disengaged spectrum. These are on-balance developmentally inferior parenting approaches; so why force all parents into them via legislation?

In fact, there is no "one size fits all" approach in childrearing because each child and parent dynamic is unique. Therefore, there is no approach equally suited to meek and mild children and to strong-willed and oppositionally-defiant children.

In 2012, Dr. John Fletcher, editor-in-chief in the Canadian Medical Association Journal, called section 43 an "anachronistic excuse for poor parenting." He wrote:

Parents need to be re-educated as to how to discipline their children. To have a specific code provision excusing parents is to suggest that assault by a parent is a normal and accepted part of bringing up children.

He added that section 43 is ". . . a constant excuse for parents to cling to an ineffective method of child discipline.

Dr. Fletcher's opinion piece did not rely on any methodologically sound study, just slanted material designed to fit a particular narrative.

The best parenting system research on the planet (Baumrind et. al.) shows that "Authoritative" parenting styles (which are highly nurturing, demanding and responsive and) which universally use moderate and occasional spanking as a back-up to other methods, produce developmentally better outcomes than any other parenting style.

Even if parents needed re-educating, the fact is that they have not been re-educated. There's a reason for this. We've repeatedly asked people making these "better" approach claims to outline the method and support their "effectiveness" claims via recidivism data. Not one has so far been able to do so.

And lacking this illusive method that no can define; we've seen what happens when countries ban spanking when their populations weren't ready for it - skyrocketing crime and abuse. We can't afford that in Canada. If there ever were a time to ban spanking in Canada, it should be after much re-education. It should be when this undisclosed fast and effective approach is finally disclosed so all parents can use it. It should not be when 82% of parents still spank, as a superior consequential method in behaviour management as compared to all other alternatives.

There are alternative methods to teach and discipline that do not involve physical violence.

A study of adults growing up under spanking bans indicated the typical substitutes parents resort to are: “pushing, shoving, shaking and restraining, screaming and verbal put-downs, sarcasm, shaming & humiliation, being intentionally ignored (removal of affection), and withholding food.”¹⁹ Are these the methods? Because that’s what actually happens.

Parenting programs have been successful at teaching positive parenting techniques and improving the behaviour of children. These programs need to be widely available to Canadian families.

Truly “Positive Parenting”, systems which rely on positive reinforcements and exclude the use of consequences, are shown they can accentuate positive behaviour, but do not modify anti-social behaviours, which entrench over time. That is the crux of the problem - ergo the explosion in child and youth violence rates in Sweden, having been legislated into these less-effective parenting ideologies.

Section 43 sends a message that we in Canada approve of the assault of children. The United Nations has told us three times to do something about it. Over 60 per cent of Canadians want us to do something about it. More importantly, children need us to do something about it.

Do we want to live in a country that does not prohibit but only defines how we can assault children? I don't think so. Remember, we tell everyone with pride that this is a place that protects the vulnerable. We are the ones that must show leadership here, because if not us, then who?

(On motion of Senator Martin, debate adjourned.)

By all accounts, this Bill is simply a solution in search of a problem.

Do we want to live in a country that shackles parents without providing them adequate, realistic alternatives, except a much-talked-about yet never-disclosed parenting panacea? Do we want to live in a country that follows a known path to destruction--to substantially more violent crimes and child abuse? Do we want the U.N. to say of Canada, as it said of Sweden in 2013, that Canada is on the verge of becoming a third-world country? No, no, and no. Life is not black and white. Parenting is not force or no force. It's complex; it's nuanced; it's human. We're smarter than this. Keep 43. Keep families intact.

Finally, we leave you with the words of the Supreme Court of Canada:

“Without section 43, Canada’s broad assault law would criminalize force falling far short of what we think of as corporal punishment. The decision not to criminalize such conduct is not grounded in devaluation of the child, but in a concern that to do so risks ruining lives and breaking up families...”

**Respectfully Submitted
On Behalf of Canadian Children and Families**

Sources

- 1 <http://www.torontosun.com/2013/12/15/un-should-keep-spanking-opinion-to-itself>
- 2 Hoff, H, "Sweden – the Canary in the Coal Mine: How the abolition of Traditional Parenting Ultimately Destroys a Society", Iron Gate Research, January 2017, found here: <http://www.keep43.ca/app/download/7245738500/Sweden+-+The+Canary+in+the+Coal+Mine.pdf>
- 3 Hoff, H. "Corporal Punishment: Is it Effective?", Iron Gate research, 2012, ISBN 149759748X, found here: <https://www.amazon.com/Corporal-Punishment-Effective-Empirical-Records/dp/149759748X/>
- 4 Hoff, H, "Determining the Increased Annual Cost to Canadian Society if the Typically Observed Increases in Youth Violence from Repeal 43 replicates in Canada", December 9, 2016, Found here: <http://www.keep43.ca/app/download/7245480313/2016-12-09+Costing+Youth+Violence+promoted+by+Repeal+of+Sec43.pdf>
- 5 Fuller, Jason, "Corporal Punishment and Child Development", Akron Law Review, Vol. 44, No. 1, 2010. p.17 (notes 56, 57) found here: <http://www.keep43.ca/app/download/7241857347/2010+Fuller+-+CP++Child+Development.pdf>
- 6 Robert E. Larzelere, Taren Swindle and Byron R. Johnson, "Swedish Trends in Criminal Assaults against Minors since Banning Spanking, 1981-2010", International Journal of Criminology and Sociology, 2013, 2, 129-137. Found Here: <http://www.keep43.ca/app/download/7241856562/2013+Larzelere%2C+Swedish+trend+s+1981-2010.pdf>
- 7 "WHY do spanking bans increase child abuse? Science Shows..." found here: <http://www.keep43.ca/child-abuse/>
- 8 "2016 Defying Human Nature, An Analysis of New Zealand's 2007 Anti-Smacking Law", Johnson, Alan, "Striking a Better Balance: A State of the Nation Report from the Salvation Army", The Salvation Army Social Policy and Parliamentary Unit, New Zealand, February 2014, "Figure 2: Offences against children 2008-2013" found here: <http://www.keep43.ca/app/download/7243563856/2016+NZ+Defying-Human-Nature.pdf>
- 9 Fuller, Jason, "The Science and Statistics Behind Spanking Suggest that Laws Allowing Corporal Punishment are in the Best Interests of the Child", March 11, 2009. Akron Law Review, Vol. 42, No. 243, 2009. pp.275-276, citing Roger Lord, Barnen skämmer ut Sverige [The Children are Embarrassing Sweden], REDACTEUR EMERITUS, July 4, 2005 (Swed.). found here: <http://www.keep43.ca/app/download/7241857300/2009+Fuller+-+The+Science+and+Statistics+Behind+Spanking.pdf>
- 10 "1 in 4 Swedish Women will be Raped as Sexual Assault increases 500%", FrontlineMag, January 29, 2013, found at www.frontpagemag.com/point/175434/1-4-swedish-women-will-be-raped-sexual-assaults-daniel-greenfield accessed January 13, 2017

- 11 2 *ibid*, p.4
- 12 "Research on Disciplinary Spanking is Misleading", American College of Pediatricians, January 2017, found here: www.acped.org/the-college-speaks/position-statements/parenting-issues/corporal-punishment-a-scientific-review-of-its-use-in-discipline/research-on-disciplinary-spanking-is-misleading
- 13 Hoff, H, "Parental Spanking Bans and Societal Disinterest in Children: How they Relate by Fertility Rate Analysis", Iron Gate Research, 2015, found here: <https://www.amazon.com/Parental-Spanking-Societal-Disinterest-Children/dp/1517714788>
- 14 Hoff, H "Parental Spanking Bans: As Predictors of Future Societal Alcohol and Substance Abuse", Iron Gate Research, 2015, found here: <https://www.amazon.com/Parental-Spanking-Bans-Predictors-Substance/dp/1519454880>
- 15 Gunnoe, M. "Associations Between Parenting Style, Physical Discipline and Adjustment in Adolescents' Reports", 2013, 112, 3, 933-975
- 16 McBroon, Patricia, "UC Berkeley study finds no lasting harm among adolescents from moderate spanking earlier in childhood", 24 August 2001, found here: http://www.berkeley.edu/news/media/releases/2001/08/24_spank.html
- 17 Hoff, H "Parenting Styles, Prevalence of Normative Spanking, and Reports of Children Sanctioned at School", Iron Gate Research, 2017, found here: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2941565
- 18 Stewart, Hamish, "Parents, Children, and the Law of Assault" (January 1, 2009). Dalhousie Law Journal, Vol. 32, p. 1, 2009. Citing without Sec.43 (p.4) "Neither the exercise of prosecutorial discretion nor the common law defences of necessity and de minimis would be adequate to protect parents who were carrying out their duties." Available at SSRN: <https://ssrn.com/abstract=1547490>
- 19 Hoff, H. "An Empirical Study of Adult Males: Relating Childhood Disciplinary Spanking and Sexual Orientation as Predictors of Consensual Adult Spanking" Iron Gate Research, 2015, p.23, ISBN 151698014X
- 20 "In leaked memo, Peel CAS staff asked to keep cases open to retain funding" theStar.com, March 14, 2013 stating, "our volumes continue to be lower than our projections and this will result in less funding for our organization which directly impacts our current deficit and could impact our funding in future years. Therefore the month of March is very important and we need to make a collective effort to meet our newly discussed targets." found here: https://www.thestar.com/news/gta/2013/03/14/in_leaked_memo_peel_cas_staff_asked_to_keep_cases_open_to_retain_funding.html