



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.

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On October 4, 2017, Hon. Senator Chantal Petitclerc delivered a speech in support of Bill S-206 (during Second Reading): An Act to amend by Repealing Section 43 of the Criminal Code inclusive of the Supreme Court's 2004 Rulings defining the same.

We have copied the speech in its entirety below:

Bill to Amend—Second Reading—Debate Continued

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

Hon. Chantal Petitclerc: Honourable colleagues, it is our responsibility to always make a priority of protecting the most vulnerable members of our society. That is why I am rising today in support of Bill S-206, which seeks to repeal section 43 of the Criminal Code. Section 43 authorizes teachers and parents to use force to correct the behaviour of children under their care.

In a 2004 decision, the Supreme Court imposed legal limits on the application of section 43. It ruled that use of force would only be allowed if the child is between two and twelve years old. The person using force must not use an object and must not hit or slap the child's head. Also, the force used must not be degrading or inhumane.

[English]

It is time, in my opinion, to go a step further, and this is what Bill S-206 does.

In taking the floor today, I join many of my colleagues who feel that the vulnerability of children justifies that no force should ever be used on them.

I salute the determination of Senator Hervieux-Payette, who initiated this bill. Our former colleague tabled seven similar proposals. She left us with plenty of evidence that corporal punishment has no educational value.

Senators Pate, Munson and Sinclair have already clearly demonstrated the harm that section 43 causes to the rights and safety of children.

[*Translation*]

Dear colleagues, it is true that it is not always easy to be a parent, to have to always be patient and avoid getting carried away when your child is crying or complaining and you don't know how to calm them down. It can be challenging, very challenging even.

In preparing this speech, I remembered that, when I had my son almost four years ago, the hospital made us take a short training course to help us deal with situations where we did not know what to do. I had no choice but to benefit from this parental obligation. They told us to write down the names of people who could help us if we felt like we were losing control. They told us, "If you are reaching the end of your tether, put your child in a safe place and call that person for help."

As I held my not yet day-old son Elliot in my arms, I remember being unable to imagine how things could get to that point. That just shows how hard parenting can be, but also how much we have a duty to protect children.

I remember thinking that a parent should obviously do whatever they can to avoid using force to control their child. I thought, not only is that the right thing to do, but it is also illegal to strike a child. Imagine my surprise when I found out that it is not prohibited by law. The question we need to ask is this: why is such an anachronistic practice still allowed? Why is it still possible to inflict physical punishment in our society?

(1530)

In 1892, when the right of correction was codified in our Criminal Code, subjecting a subordinate to corporal punishment was considered a normal disciplinary measure. An employer had the freedom and right to hit a subordinate, the captain of a ship could hit his sailors to maintain order and discipline on board, and it was all legal.

[*English*]

Today, who would dare strike an adult without their consent? It is no longer acceptable today to resort to force except on children.

Senator Sinclair is quite right:

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.

This is exactly why we have to protect them. Many adults believe that striking, even moderately, is an effective educational practice that allows the parent to assert his or her authority and is for the benefit of the child.

Let me tell you that long before preparing for this bill, I read every possible piece of literature on child development and discipline. My husband has often teased me that I prepare as a parent with the same intensity that I had as an athlete — and it's not a compliment. But from my obsessive readings, to me it is strongly doubtful that the child benefits from any form of force or violence.

Even more, there is consensus that corporal punishment has a negative impact on personal development. Children affected by violence may develop anxiety and depression problems. Several researchers in neurobiology have shown it. The psychological impact is real.

Wanting to assert authority by spanking, hitting, shaking or slapping is counterproductive. It doesn't work, and it creates frustration and fear in the child. Physical violence equals zero positive impact.

[*Translation*]

Corporal punishment promotes aggressive attitudes in children. Besides, how could anyone hit a child and then expect them not to do the same? It is simply hypocritical. If children emulate positive role models, of course they will also emulate negative ones. Naturally, as they grow up, children who have been humiliated will be more likely to humiliate others. Parents therefore play a very important role in socializing their children. What message are we sending our children if we use violence, even moderate violence, to discipline them?

[*English*]

The proponents of section 43 are of the view that this section of the Criminal Code does not provide educators and parents with the right to correct a child but instead gives them a reasonable means of defence. In my humble view, however, section 43 of the Criminal Code provides false protections to parents and teachers who see it as a defence.

Section 43 cannot be invoked when a child is injured. It is possible that a parent intends to use only a reasonable amount of force, or what they think to be reasonable, but at the end, a child will end up with an injury.

The line between so-called "educational violence" and abuse can be very thin. It is also not because the child does not show any visible sign of injury that he does not experience suffering.

[*Translation*]

The fact is, protecting adults, parents, should not take precedence over protecting children. Why should we give parents the right to avoid potential prosecution and refuse children, who are much more vulnerable, the right to adequate protection? There is no balance of power between children and adults, which is why children must be our priority. I believe that repealing section 43 will achieve that balance.

[*English*]

Bill S-206 raises the debate about how far we want to go as a society to better protect our children. Other societies have been addressing this issue for a long time by

removing this right to correct from their legal framework. Corporal punishment under all circumstances is now prohibited in several countries.

In 1994, Quebec withdrew the right of moderate and reasonable correction on the child from the Civil Code.

[*Translation*]

Honourable colleagues, we are not going to be flooded with hundreds of emails about this bill. It is no wonder, given that the main people it affects are not even old enough to write yet. That is how vulnerable they are, which is why we have a responsibility to protect them. True, we will not hear from them directly, but we must still be attentive to their needs.

We must not hide behind the 2004 Supreme Court ruling, nor use it as an excuse to do nothing. Societies evolve. They change, improve and transform. Tomorrow's standards may not be the same as today's. Social change does not happen overnight; it must be spurred.

Must we always wait for the courts to tell us what to do? In my opinion, the right of correction, even moderate correction, is unacceptable in modern-day Canada. The Government of Canada has vowed to adopt all the recommendations of the Truth and Reconciliation Commission, and one of those recommendations calls for section 43 to be repealed. Thanks to our former colleague, Senator Hervieux-Payette, we now have the opportunity to do so. Let us seize this opportunity for the good of Canada's children of today and tomorrow.

[*English*]

When we think about the country we are building each day, it is my belief that we want to live in a country where using physical force on others is simply unacceptable no matter how old or young they are. Every Canadian should feel and be safe from birth to the end. This is why I will vote in support of Bill S-206.

Some Hon. Senators: Hear, hear.

Hon. Donald Neil Plett: Would the senator take a question?

Senator, beating a child is already illegal. Many signs of force are already illegal. I'm always a bit perplexed and frankly dismayed when people use this bill as something that will stop the beating of children. The beating of children is illegal right now. Leaving a mark on a child is illegal now. Using any type of instrument to strike a child is illegal. These things are all illegal. Many of the things you and other senators have referred to are already illegal.

You said in your speech that no force — no force — should ever be used. How do you square the box that when two eight-year-old children are fighting on the front lawn, this bill will prevent a parent, schoolteacher or anybody in authority from separating those two children by force?

Some Hon. Senators: Oh, oh.

Senator Plett: Yes, it will. This isn't a debate. Let the senator answer the question, Senator Sinclair. You can answer it when you speak, and I'll ask you the question.

You yourself said this bill will prevent any force. That is force. When a child wants to go and put his hand on a hot stove, and you remove him, that is force. When a child throws a temper tantrum and refuses to go to school, and you pick that child up and put him in the back seat of a car, it is force. Those will all be illegal if Bill S-206 passes.

(1540)

Is it acceptable to not be able to force a child to go to school, to not be able to separate two people? You can't use the argument that fighting is illegal, so we can do that. No, fighting is not illegal; assault is illegal. Two people wanting to fight is not illegal. You can't separate them because they are not doing anything illegal.

[*Translation*]

The Hon. the Speaker: Excuse me, senator, but your time is up. Would you like five more minutes to answer the question?

Senator Petitclerc: Yes, gladly.

[*English*]

Thank you for your question. My understanding of the bill is that all of the examples you have been referring to are not going to be illegal. I don't know what more I can say to answer you, but my understanding of the bill is clearly not the same as yours.

Senator Plett: Very briefly, I would strongly encourage you and all senators that are planning on possibly voting for this bill to do some research and find out what the bill actually does. I have done that research.

That was not a question, by the way.

Senator Mitchell: That was on debate.

Hon. Ratna Omidvar: This is a really serious matter and I don't want to in any way add some levity to it, but I was reminded of the famous Canadian comic Russell Peters, who some of you may have heard about in his recounting of his own childhood where his father would say, "Russell, you are going to get hurt so bad," in a thicker accent than I have. I encourage you all to listen to his podcasts because they will split your sides.

The law is one thing. It's practice, it's understanding behind closed doors and families are completely different. How would you think about this law in its lived reality in our communities?

Senator Petitclerc: Thank you for the question. I have thought about that a lot, in fact. I have thought about the bill, what I read, what others have said about the bill, and how I believe in it. I also took time to think about my own experience and what I see around me, because you are right; there is the bill and there is real life and the real life of being a parent.

I am a mother now. My son is a very stubborn, active, three and half year old — no surprise there — and I went back to my own parents. I think my dad would be okay to hear me making that decision for him. My dad came from a family where physical force, and I think we can say violence, was used on all seven kids. I don't know if that's why, but my dad is a very tough construction worker and he never, ever used force on us. I

thank him for that. It makes me realize and respect that, but he had authority. I can tell you that when he said something, we listened.

My personal experience, and everything that I have been reading while being a new mother, makes me believe that there is no use and no need for force. And this is why I support the bill.

(On motion of Senator Frum, for Senator Andreychuk, debate adjourned.)

[*Translation*]