

Corporal Punishment of Children in England and the United States:

Current Issues

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Abstract

Proverbs has eight statements about beating children, but that book does not contain the often cited proverbial “spare the rod and spoil the child.” This form of discipline, which is thousands of years old, has only recently been abandoned and forbidden in many states in the US, and in much of Europe. It is still legal in Britain and some US states, and remains a controversial issue.

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CHILD-BEATING remains a controversial medical and bioethical problem. The commonly cited maxim, “Spare the rod and spoil the child,” is not a biblical commandment. Admittedly, the Book of Proverbs (1) has similar sentences: (10:13) A rod is ready for the back of the senseless; (13:1) A wise son...it is through the discipline of his father; (13:24) He who spares the rod hates his son, But he who loves him disciplines him early; (19:18) Discipline your son while there is still hope; (22:15) If folly settles in the heart of a lad, The rod of discipline will remove it; (23:13) Do not withhold discipline from a child; If you beat him with a rod he will not die, Beat him with a rod and you will save him from the grave; (26.3) A rod for the back of dullards; (29:15) Rod and reproof produce wisdom, But a lad out of control is a disgrace to his mother.

Proverbs is an anthology of contemporary Near Eastern wisdom literature compiled around the 5th century BCE. For example, in the time of Sennacherib, in the late 7th century BCE, an Assyrian sage, Ahiqar (who is mentioned in *Tobit*), wrote, “The son who is trained and taught and on [whose]

feet the fetter is put [shall prosper]. Withhold not thy son from the rod, else thou wilt not be able to save [him from wickedness]. If I smite thee, my son, thou wilt not die, but if I leave thee to thine own heart [thou wilt not live]” (2).

In fourth century BCE Greece, Menander claimed that “he who is not flogged is not educated” (3). Even earlier, about 2000 BCE, Sumerian school-children were criticized for pushing, shouting, quarreling and cursing. Conversely, these pupils complained of being caned merely for being late to arrive, early to leave, untidy, or for slouching, talking or standing without permission, not speaking Sumerian and having untidy handwriting (4). One rare exponent of moderation was the first century Alexandrian Pseudo-Phocylides: “Do not apply your hand violently to tender children.... Be not harsh with your children, but be gentle” (5).

Beating children was lawful. The Talmudic sages said that a father may beat his son and a teacher his pupil, but only with a shoe thong (6). “If being excessively angry, a father killed his son while punishing him, he is not (as in Roman law) immune from the consequences of his action: it is murder” (1). Today, it is manslaughter or the equivalent in most legal systems.

Corporal punishment has been a practice of both secular and religious education (7) in many societies in all centuries until recently. There is extensive literature on its use in British schools (8).

Victorian Britain relished beating children into obedience and duty, and felt that they were divinely commanded not to “spare the rod and spoil the child.” As recently as 1904, an admiral cited King

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Solomon, the legendary author of *Proverbs*, against George Bernard Shaw, who maintained that “the cane and the birch are essentially a fool’s implements” (9). Shaw demolished the admiral’s arguments.

In Britain, the law permitting the caning of children dates from 1860, when “to correct what is evil in a child,” parents could “inflict moderate and reasonable corporal punishment.” The cane was outlawed in state schools in the 1986 Education Act. Beating is legal in English homes and private schools, provided parents agree with the school’s code of discipline. In Britain, 74% of 11,600 adults surveyed reported that, as children, they had been punched, kicked or choked by their parents, and 35% of children of a sample of typical two-parent families had received severe physical punishment (9). However, the European Court is currently trying to compel Britain to ban such beating as a violation of Article 3 of the European Convention for the Protection of Human Rights. Britain is also in violation of Article 19 of the 1989 UN Convention of the Rights of the Child, which requires signatories “to protect the child from all forms of physical violence” (10).

In the US 27 states have already banned corporal punishment in schools, beginning with New Jersey, in 1867. Yet the US Supreme Court in 1977 rejected the notion that such punishment was cruel, thereby allowing hundreds of thousands of children to be beaten each year in the 23 states where it is still legal (11). Since Canadian law forbids caning, one hundred families of the Church of God recently fled Ontario for the US as refugees, seeking political asylum in Ohio and Indiana on grounds of religious persecution, claiming that they were not being allowed to follow the word of God “to use the rod of correction” (12). Their literal fundamentalism forbids them to strike their children, because the hand

is to be used to caress, so that any discipline would require the biblical rod. And the Canadian Supreme Court in January 2004 allowed parents to spank their 2–12 year-old children with only limited force (13). However, the English courts recently rejected a claim by teachers and parents of children in an independent school that their religious beliefs in corporal punishment for religious reasons was an article of religious faith for purposes of freedom of conscience in the European Convention of Human Rights (14).

References

1. Cohen A, ed. *Proverbs*. London: Soncino Press; 1946. p. 128.
2. Pritchard JB, ed. *Ancient Near Eastern texts relating to the Old Testament*. Princeton: University Press; 1978. p. 428b.
3. Cohn A, editor. *Proverbs*. London: Soncino Press; 1946. p. 148.
4. Kramer SN. *The Sumerians: their history, culture, and character*. Chicago: University Press; 1961. pp. 235–236.
5. Collins JJ. *Jewish wisdom in the Hellenistic age*. Edinburgh: Westminster John Knox Press; 1997. p. 167.
6. Epstein I, editor. *The Babylonian Talmud: Baba Bathra*. London: Soncino Press; 1935. 21a. p. 106.
7. Maimon S. *Autobiography*. London: East and West Library; 1954. p. 31.
8. Gibson I. *The English vice*. London: Duckworth; 1978; pp. 48–51.
9. Elliman D, Lynch MA. The physical punishment of children. *Arch Dis Child* 2000; 83(3):196B198.
10. Barton C. Sparing the rod will not spoil the child. *The Times* (London) 2000 April 18; p. 9.
11. Wilgoren J. Lawsuits touch off debate over paddling in the schools. *N Y Times* 2001 May 3; Sect. A:1,22.
12. Kay K. Cult members flee to US to keep beating their children. *N Y Times* 2001 Aug 3; Sect. A:15.
13. Annotation. Canada: Court backs spanking. *N Y Times* 2004 Jan 31; Sect. A:5.
14. Law Report, Queen’s Bench Division. 15 Nov 2001. *The Times* (London) 2001 Dec 12; Sect. 2:30.