

# Should Australian parents be legally prevented from physically punishing their children?

## What they said...

*‘Corporal punishment triggers harmful psychological and physiological responses. Children...experience pain, sadness, fear, anger, shame, and guilt...’*

**United Nations World Health Organisation**

*‘Properly understood and administered, spanking is most effective as a deterrent to undesirable behavior for younger preschoolers...’*

**Clinical psychologist Dr Jared Pingleton**

On November 24, 2022, the United Nations Committee Against Torture (UNCAT) recommended that Australia should ‘explicitly prohibit corporal punishment in law in all settings, including in homes...and [that it should] repeal the legal defence of “reasonable chastisement”.’ <https://tinyurl.com/yck9mfed>

On October 13, 2022, the Parenting & Family Research Alliance (PAFRA) released a briefing paper titled, ‘Corporal punishment of children in Australia: The evidence-based case for legislative reform’, which argued for Australia to make the physical punishment of children illegal.

[https://www.pafra.org/files/ugd/0e4d30\\_ff1d4769926443d39415b774d3ccb44c.pdf](https://www.pafra.org/files/ugd/0e4d30_ff1d4769926443d39415b774d3ccb44c.pdf)

On September 9, 2022, Anne Hollonds, the National Children’s Commissioner, also called for smacking to be made illegal. Commissioner Hollonds referred to the preliminary findings of Australia’s National Research Organisation for Women’s Safety (ANROWS) which suggests that the corporal punishment of children prompts intergenerational family violence.

<https://www.smh.com.au/national/new-data-prompts-call-to-abolish-australia-s-ancient-smacking-laws-20220908-p5bgcu.html>

Despite this, some prominent media spokespeople have voiced their opposition to any further restrictions on how parents rear their children. <https://www.dailymail.co.uk/news/article-11309113/Karl-Stefanovic-smacking-ban-Today-host-slams-talk-make-illegal.html> It also appears that many parents continue to physically punish their children. A 2019 report found that between 50 and 80 percent of Australian parents reported using corporal punishment to discipline their children. [https://aifs.gov.au/resources/resource-sheets/physical-punishment-legislation#:~:text=Between%2050%25%20and%2080%25%20of,children%20\(Poulsen%2C%202019\).](https://aifs.gov.au/resources/resource-sheets/physical-punishment-legislation#:~:text=Between%2050%25%20and%2080%25%20of,children%20(Poulsen%2C%202019).)

## Background

The information below has been taken from the Wikipedia entry titled ‘Corporal punishment in the home’, accessed from

[https://en.wikipedia.org/wiki/Corporal\\_punishment\\_in\\_the\\_home](https://en.wikipedia.org/wiki/Corporal_punishment_in_the_home)

Definition of corporal punishment

Physical or corporal punishment by a parent or other legal guardian is any act causing deliberate physical pain or discomfort to a minor child in response to some undesired

behavior. It typically takes the form of spanking or slapping the child with an open hand or striking with an implement such as a belt, slipper, cane, hairbrush or paddle, hanger, and can also include shaking, pinching, forced ingestion of substances, or forcing children to stay in uncomfortable positions.

The growing debate around the physical punishment of children

Social acceptance of corporal punishment is high in countries where it remains lawful, particularly among more traditional groups. In many cultures, parents have historically been regarded as having the right, if not the duty, to physically punish misbehaving children in order to teach appropriate behavior. Researchers, on the other hand, point out that corporal punishment typically has the opposite effect, leading to more aggressive behavior in children and less long-term obedience. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8386132/>

Other adverse effects, such as depression, anxiety, anti-social behavior and increased risk of physical abuse, have also been linked to the use of corporal punishment by parents.

<https://pubmed.ncbi.nlm.nih.gov/22753561/> Evidence shows that spanking and other physical punishments, while nominally for the purpose of child discipline, are inconsistently applied, often being used when parents are angry or under stress. [http://whatcomwebsite-](http://whatcomwebsite-inflightstudio.netdna-ssl.com/wp-content/uploads/sites/17/2019/01/e20183112.full_.pdf)

[inflightstudio.netdna-ssl.com/wp-content/uploads/sites/17/2019/01/e20183112.full\\_.pdf](http://whatcomwebsite-inflightstudio.netdna-ssl.com/wp-content/uploads/sites/17/2019/01/e20183112.full_.pdf)

Severe forms of corporal punishment, including kicking, biting, scalding and burning, can also constitute child abuse.

Physical punishment as a violation of children's human rights

International human-rights and treaty bodies such as the Committee on the Rights of the Child, the Council of Europe and the Inter-American Commission on Human Rights have advocated an end to all forms of corporal punishment, arguing that it violates children's dignity and right to bodily integrity. Many existing laws against battery, assault, and/or child abuse make exceptions for "reasonable" physical punishment by parents, a defence rooted in common law and specifically English law. During the late 20th and into the 21st century, some countries began removing legal defences for adult guardians' use of corporal punishment, followed by outright bans on the practice. Most of these bans are part of civil law and therefore do not impose criminal penalties unless a charge of assault and/or battery is justified; however, the local child protective services can and will often intervene.

Countries where the physical punishment of children is banned

Ever since Sweden outlawed all corporal punishment of children in 1979, an increasing number of countries have enacted similar bans, particularly following international adoption of the Convention on the Rights of the Child. As of 2021, this comprises 22 of the 27 member states of the European Union as well as 26 of the 38 countries belonging to the OECD.

As of January 6, 2023, 70 countries had banned the physical punishment of children. In chronological order, these are:

Sweden (1979), Finland (1983), Austria (1989), Cyprus (1994), Denmark (1997), Poland (1997), Latvia (1998), Germany (1998), Croatia (1999), Bulgaria (2000), Israel (2000), Turkmenistan (2002), Iceland (2003), Ukraine (2004), Romania (2004), Hungary (2005), Greece (2006), Netherlands (2007), New Zealand (2007), Portugal (2007), Uruguay (2007),

Venezuela (2007), Chile (2007), Spain (2007), Togo (2007), Costa Rica (2008), Moldova (2008), Luxembourg (2008), Liechtenstein (2008), Norway (2010), Tunisia (2010), Kenya (2010), Congo, Republic of (2010), Albania (2010), South Sudan (2011), North Macedonia (2013), Cabo Verde (2013), Honduras (2013), Malta (2014), Brazil (2014), Bolivia (2014), Argentina (2014), San Marino (2014), Nicaragua (2014), Estonia (2014), Andorra (2014), Benin (2015), Ireland (2015), Peru (2015), Mongolia (2016), Montenegro (2016), Paraguay (2016), Aruba (2016), Slovenia (2016), Lithuania (2017), Nepal (2018), Kosovo (2019), France (2019), South Africa (2019), Jersey (2019), Japan (2020), Georgia (2020), Scotland (2020), Seychelles (2020), Guinea (2021), Colombia (2021), South Korea (2021), Wales (2022), Zambia (2022) and Mauritius (2022).

However, domestic corporal punishment of children remains legal in most of the world, including in the United States, Canada and England, countries with which Australia often compares itself.

## **Internet information**

On November 4, 2022, the United Nations Committee Against Torture (UNCAT) recommended that Australia should ‘explicitly prohibit corporal punishment in law in all settings, including in homes...and [that it should] repeal the legal defence of “reasonable chastisement”’.

The Committee makes recommendations relevant to several countries, including a significant number to Australia. The anti-corporal punishment recommendation to Australia is recommendation 48.

The full text can be accessed at <https://tinyurl.com/yck9mfed>

On October 25, 2022, the online parenting magazine Happy Families published a lengthy comment and analysis by psychologist Dr Justin Coulson, who is a consultant to the Federal Government's Office of the Children's e-Safety Commissioner. The article is titled ‘Why It's Not Ok to Smack Your Kids’.

Though the article clearly opposes physical punishment, it gives a thorough and well-considered overview of both sides of the debate and the development of the issue over time. The full text can be found at <https://www.happyfamilies.com.au/articles/why-its-not-ok-to-smack-your-kids>

On October 16, 2022, The Epoch Times published a comment by Gabriël Moens, an emeritus professor of law at the University of Queensland. The opinion piece is titled ‘Smacking: Discipline or Abuse?’. Moens explains the difficulties of definition around determining what might be legally justifiable physical punishment of children.

The full text can be accessed at [https://www.theepochtimes.com/smacking-discipline-or-abuse\\_4800226.html](https://www.theepochtimes.com/smacking-discipline-or-abuse_4800226.html)

On October 13, 2022, the Parenting & Family Research Alliance (PAFRA) released a briefing paper titled, ‘Corporal punishment of children in Australia: The evidence-based case for legislative reform’, which argued for Australia to make the physical punishment of children illegal. It gave detailed recent research data to support its position.

The full text of the article can be accessed at

[https://www.pafra.org/files/ugd/0e4d30\\_ff1d4769926443d39415b774d3ccb44c.pdf](https://www.pafra.org/files/ugd/0e4d30_ff1d4769926443d39415b774d3ccb44c.pdf)

On October 13, 2022, Nine Honey.com.au published an opinion piece by Jo Abi titled “Being smacked as a child damaged me, but I still don't want it to be criminalised”. Abi explains why physical punishments harms children but argues that parents should be educated against it rather than be legally penalized.

The full text can be accessed at <https://honey.nine.com.au/parenting/opinion-smacking-children-calls-for-it-to-be-criminalised/90e12174-b652-4cd6-af9e-2165b0b5d046>

On September 9, 2022, The Sydney Morning Herald published an article titled ‘New data prompts call to abolish Australia’s “ancient” smacking laws’ which referred to recent findings of Australia’s National Research Organisation for Women’s Safety ((ANROWS) regarding the heightened risk of aggressive behaviour from children who were physically punished in the home. The risk has been associated with an increased likelihood of domestic abuse in adulthood.

The full text can be accessed at <https://www.smh.com.au/national/new-data-prompts-call-to-abolish-australia-s-ancient-smacking-laws-20220908-p5bgcu.html>

On July 26, 2022, The Conversation published an opinion piece titled ‘Research shows it’s harmful to smack your child, so what should parents do instead?’. Written by Professor Daryl Higgins, Director of the Institute of Child Protection Studies at the Australian Catholic University and Professor Sophie Havighurst, the Leader of Tuning in to Kids Research and Dissemination at the University of Melbourne, the article offers a range of research-supported child management techniques.

The full text can be accessed at <https://tinyurl.com/4fk9nd7w>

On June 16, 2022, The Herald Sun published an article by Susie O'Brien and Olivia Jenkins titled ‘Call for smacking ban after study reveals 60pc of Aussie kids were physically punished’. The news report treats the preliminary findings of the Australian Child Maltreatment Study.

The report can be accessed at <https://www.heraldsun.com.au/news/victoria/six-in-ten-australians-have-been-smacked-by-their-parents/news-story/b0d5ee1e70d132e78bd86bb201cf8ba0>

On April 25, 2022, The Canberra Weekly published an opinion piece titled, ‘Time to end corporal punishment of children’ by Angelika Poulsen, PhD candidate in family violence at Queensland University of Technology. The comment outlines the main arguments against continuing to allow parents to physically punish their children.

The full text can be accessed at <https://canberraweekly.com.au/to-the-editor-time-to-end-corporal-punishment-of-children/>

On March 21, 2022, the Welsh pro-smacking parent lobby group, Be Reasonable, updated its information site informing parents of the possible consequences of Wales’s new anti-smacking laws which had just come into effect.

Some of these warning can be accessed at <https://www.bereasonable.wales/en-home/faq/>

On November 23, 2021, the United Nations World Health Organisation (WHO) released a fact sheet titled 'Corporal punishment and health'. The information sheet details the physical, psychological and cognitive harms caused to children by physical punishment.

The full text can be accessed at <https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health>

On May 3, 2021, The Conversation published a comment by Angelika Poulsen from the Queensland University of Technology titled 'Evidence shows children who are smacked are more likely to be involved in partner violence in adulthood' which reveals that children who receive corporal punishment have an increased likelihood of being part of domestic abuse when adults.

The full text can be accessed at <https://theconversation.com/evidence-shows-children-who-are-smacked-are-more-likely-to-be-involved-in-partner-violence-in-adulthood-159632>

On February 7, 2020, Mamamia published a feature article by Belinda Jepsen titled 'It's perfectly legal to smack a child in Australia. But there's evidence it shouldn't be.'. Zepsen marshals the major points of evidence raised against physically punishing children and considers what the alternatives might be.

The full text can be accessed at <https://www.mamamia.com.au/smacking-child-impact/>

On December 30, 2019, Reformed Perspective published a comment by Mark Penninga of the Association for Reformed Political Action (ARPA) Canada, titled 'Exposing the poor research fueling the anti-spanking campaign'.

The opinion piece highlights some of the supposed weaknesses in the data supporting anti-smacking laws.

The full text can be accessed at <https://reformedperspective.ca/exposing-the-poor-research-fueling-the-anti-spanking-campaign/>

On October 16, 2019, the Welsh pro-smacking parents lobby group, Be Reasonable, released an article titled '10 reasons not to ban smacking'. The comment presents ten arguments opposing the banning of smacking.

The full text can be accessed at <https://www.bereasonablescotland.org/press-releases/10-reasons-not-to-ban-smacking/>

On July 2, 2019, The Local published a news report titled 'France to finally ban smacking children – but parents won't be punished'. The report details the intentions of the new French legislation which are to educate parents not to penalize them.

The full text can be accessed at <https://www.thelocal.fr/20190702/france-to-ban-smacking-children-and-read-out-new-law-during-weddings/>

In May 2019, the American Psychological Association (APA) published a feature by Eve Glicksman titled 'Physical discipline is harmful and ineffective'

The article details research on the adverse effects of discipline and its failure as a behaviour management strategy.

The full text can be accessed at <https://www.apa.org/monitor/2019/05/physical-discipline>

On November 5, 2018, the American Academy of Pediatrics (AAP) released a statement titled 'AAP policy opposes corporal punishment, draws on recent evidence' announcing its formal opposition to the physical punishment of children, drawing on research which demonstrates that children who have received corporal punishment have a greater risk of displaying aggression.

The full text can be accessed at

<https://publications.aap.org/aapnews/news/6955?autologincheck=redirected>

On October 21, 2017, The Spectator published an opinion piece by Brendan O'Neill titled 'In defence of smacking children'. The comment explains why smacking is often a necessary and effective punishment and also argues that parents would be prone to legal harassment and potential prosecution if smacking were made illegal.

The full text can be accessed at <https://www.spectator.co.uk/article/in-defence-of-smacking-children/>

On May 5, 2017, The Herald Sun published an opinion piece by Susie O'Brien titled 'Smacking your child is unacceptable'. The comment argues that smacking should be disallowed because it obscures child abuse, is harmful and ineffective.

The full comment can be accessed at <https://www.heraldsun.com.au/news/opinion/susie-obrien/susie-obrien-smacking-your-child-is-unacceptable/news-story/f139857354019f0aa1f651fe8efc1595>

On February 14, 2017, Mercator Net published a comment by Robert Larzelere, professor of Parenting at the Department of Human Development and Family Science, Oklahoma State University, titled 'Is it harmful to smack your child?'

The opinion piece criticises the data on which some anti-smacking campaigners base their arguments. It also claims that some forms of physical punishment have been found to be non-injurious to children and effective in managing behaviour.

The full text can be accessed at <https://mercatornet.com/is-it-harmful-to-smack-your-child/9421/>

In January 2017, American College of Pediatricians published a report by Robert Larzelere, professor of Parenting at the Department of Human Development and Family Science, Oklahoma State University and Dr Dem Trumbull of the American College of Paediatricians, titled 'Research on Disciplinary Spanking is Misleading'. The report detailed the authors' criticisms of some of the prominent research supposedly indicating that smacking is harmful to children.

The full text can be accessed at

[http://webcache.googleusercontent.com/search?q=cache:n7lnNFV\\_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0](http://webcache.googleusercontent.com/search?q=cache:n7lnNFV_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0)

On September 16, 2014, Time news magazine published a comment by clinical psychologist Dr Jared Pingleton, titled 'Spanking Can Be an Appropriate Form of Child Discipline'.

In the opinion piece Pingleton attempts to explain the principles generally recommended by those who argue in favour of physical punishment for some children.

The full text can be accessed at <https://time.com/3387226/spanking-can-be-an-appropriate-form-of-child-discipline/>

In 2005, the Family Research Council published a report by Dr Dem Trumbull of the American College of Paediatricians and Dr Samuel Ravenel of the American Academy of Pediatrics, titled 'Spare the Rod? New Research Challenges Spanking Critics' suggesting that some of the research supposedly demonstrating the dangers of smacking children is misleading.

The full text can be accessed at <https://archive.acpeds.org/wordpress/wp-content/uploads/Family-Policy-Spare-the-Rod.pdf>

## **Arguments in favour of laws to prevent parents physically punishing their children**

1. Physically punishing children creates life-long emotional, psychological, and cognitive problems

Numerous studies have indicated that the physical punishment of children predisposes them to emotional and physiological disorders such as anxiety and depression that can persist into later life.

In June 2022, the Australian Child Maltreatment Study released some of the preliminary findings of its survey of 8,500 Australians between the ages of 16 and 65+. Among these findings were that females who experienced corporal punishment from their parents were 1.8 times more likely to have a major depressive disorder in their lifetime, and 2.1 times more likely to experience generalised anxiety. Males were 1.7 and 1.6 times more likely to develop depression and anxiety respectively. One of the lead researchers, Professor Daryl Higgins, the director of the Institute of Child Protection Studies at the Australian Catholic University, has stated, 'The only benefit is immediate compliance, but we know it's clearly linked to long term harm... If you want to reduce population level anxiety for women and men, don't hit them as children. There is a very real connection between corporal punishment and current and lifelong experience of mental ill health.'

<https://www.heraldsun.com.au/news/victoria/six-in-ten-australians-have-been-smacked-by-their-parents/news-story/b0d5ee1e70d132e78bd86bb201cf8ba0>

These findings have been replicated by numerous previous studies in Australia and other countries. A United States study published in 2012 found that harsh physical punishment was associated with increased odds of mood disorders, anxiety disorders, alcohol and drug abuse/dependence, and several personality disorders after adjusting for sociodemographic variables and family history of dysfunction. <https://pubmed.ncbi.nlm.nih.gov/22753561/> A United Nations World Health Organisation fact sheet released on November 23, 2021, stated, 'Corporal punishment triggers harmful psychological and physiological responses. Children not only experience pain, sadness, fear, anger, shame and guilt, but feeling threatened also leads to physiological stress and the activation of neural pathways that support dealing with danger. Children who have been physically punished tend to exhibit high hormonal reactivity to stress, overloaded biological systems, including the nervous, cardiovascular, and nutritional systems, and changes in brain structure and function.'

Despite its widespread acceptability, spanking is also linked to atypical brain function like that caused by more severe abuse, thereby undermining the frequently cited argument that less severe forms of physical punishment are not harmful. A large body of research shows links between corporal punishment and a wide range of negative outcomes, both immediate and long-term.' <https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health> Among the negative consequences presented in the World Health Organisation's 2019 overview of research data are 'mental ill-health, including behavioural and anxiety disorders, depression, hopelessness, low self-esteem, self-harm and suicide attempts, alcohol and drug dependency, hostility and emotional instability, which continue into adulthood.'

<https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health>

The negative physiological consequences referred to in the World Health Organisation's paper include disruptions in brain development and resulting reduction of cognitive function. A 2017 review of recent research on physical punishment found that children who have been disciplined in this way show differences in brain structure and functioning, suggesting that smacking negatively impacts brain development. <https://tinyurl.com/mvtfpuum> It has also been found that the physical punishment of children can have a negative effect on their performance on IQ tests. University of New Hampshire professor Murray Straus has conducted research which suggests that children who are spanked have lower IQs. Straus found that children in the United States who were spanked had lower IQs four years later than those who were not spanked. Straus and Mallie Paschall, senior research scientist at the Pacific Institute for Research and Evaluation, studied nationally representative samples of 806 children ages 2 to 4, and 704 ages 5 to 9. Both groups were retested four years later. IQs of children ages 2 to 4 who were not spanked were 5 points higher four years later than the IQs of those who were spanked. The IQs of children ages 5 to 9 years old who were not spanked were 2.8 points higher four years later than the IQs of children the same age who were spanked. Professor Straus stated, 'How often parents spanked made a difference. The more spanking, the slower the development of the child's mental ability. But even small amounts of spanking made a difference.'

<https://www.sciencedaily.com/releases/2009/09/090924231749.htm>

2. Physically punishing children encourages aggression and contributes to domestic violence  
Opponents of physically punishing children argue that this promotes aggression in the short term and may contribute to cross generational problems of violence, especially against women.

Research has established that children who are physically punished tend to inflict aggression on other family members. Professor Silke Meyer, a co-author of the ANROWS study 'Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts', said young people who had been smacked as children told researchers they 'tend to hit family members, especially siblings and mothers, as a way of conflict resolution'. Meyer has further explained, 'We had a few young people comment specifically on it [stating]: "I was smacked as a child, that taught me this kind of behaviour was OK". It's a lot around role-modelling,' said Meyer, the Leneen Forde Chair of Child and Family Research, Griffith University. <https://www.smh.com.au/national/new-data-prompts-call-to-abolish-australia-s-ancient-smacking-laws-20220908-p5bgcu.html>

The link between corporal punishment of children in the home and increased aggression among children has been noted in many countries. On January 18, 2014, a study conducted in

Tanzania, suggested the link between the physical punishment of children and their subsequent violent or aggressive behaviour. The researchers interviewed 409 children between grades 2 and 7 at one private school in Tanzania, on the east coast of Africa. Participants averaged 10.5 years old. Ninety-five percent of the boys and girls said they had been physically punished at least once in their lifetime by parents or caregivers. The majority of children, 82 percent, had been beaten with sticks, belts or other objects and 66 percent had been punched, slapped or pinched. Within the group, 21 percent of the boys and girls showed aggression problems through affirmative answers to questions like, "Have you ever taken things from others against their will?" Nine percent of children had higher-than-normal levels of hyperactivity. About 11 percent showed less empathetic behaviour than peers who had not experienced physical punishment. The lead researcher stated, 'Children learn aggressive behavior and become more aggressive toward other children.'

<https://www.reuters.com/article/us-physical-punishment-idUSBREA0G16C20140117>

Similar outcomes have been observed in countries where the corporal punishment administered to children is less severe. On November 5, 2018, the American Academy of Pediatrics observed, 'A large national cohort study conducted in the 20 largest U.S. cities noted that children who were spanked more than twice a month were more aggressive at subsequent surveys. Thus, each negative interaction reinforced previous negative interactions as part of a complex negative spiral. Children who experience repeated use of corporal punishment tend to develop more aggressive behaviors, increased aggression in school, and an increased risk of mental health disorders and cognitive problems.'

<https://publications.aap.org/aapnews/news/6955?autologincheck=redirected> Relatedly, it has been shown that children who are physically punished in the home are more likely to victimise their peers. It has been suggested that physical punishment normalises the use of violence by children who receive this treatment.

<https://www.frontiersin.org/articles/10.3389/fpsyg.2020.573329/full>

It has particularly been noted that boys who have been physically punished as children show a tendency to use violence against family members when, as adults, they become intimate partners and fathers. Professor Silke Meyer has stated, 'Very often men in behaviour-change programs for intimate partner violence will say, "My dad smacked us, and I turned out to be OK, aside from the use of abusive behaviour". Otherwise, they think, "It didn't hurt me, so it doesn't hurt my children".'

<https://www.smh.com.au/national/new-data-prompts-call-to-abolish-australia-s-ancient-smacking-laws-20220908-p5bgcu.html>

Other research has suggested a similar link between adult domestic violence and being the recipient of corporal punishment as a child. On May 3, 2021, The Conversation published an article by Angelika Poulsen, of the Department of Sociology, Australian National University, in which she explains the link between corporal punishment and domestic violence. Poulsen states, 'Smacking has a similar effect on a child's brain to that of abuse, in that the stress and fear it provokes can cause changes to some neurotransmissions. It is more likely to lead to alcohol misuse, depression, and anti-social and aggressive behaviours, which may in turn be antecedents to partner violence.' Poulsen further notes, 'Research spanning 32 countries...[has] found that people who had been smacked as children were more likely to approve of intra-marital violence. So normalising violence within a family to a child increases the likelihood of their involvement in partner violence in adulthood, as victims as well as perpetrators.'

<https://theconversation.com/evidence-shows-children-who-are-smacked-are-more-likely-to-be-involved-in-partner-violence-in-adulthood-159632>

### 3. Children's behaviour can be modified without physical punishment

There are many effective strategies for managing children's behaviour which do not involve violence.

Raisingchildren.net.au is an Australian government-funded parenting website which offers free, expert advice in all aspects of childrearing. The site gives advice on the management of children from infancy to toddlerhood, pre-school, and primary school years, through to teenage years and beyond. <https://raisingchildren.net.au/>

The section of the Raising Children website dealing with behaviour management of school-age children includes parents recognising their own feelings, positive modelling, building routines, adjusting problematic environments, warning of anticipated changes, offering controlled choices, posing appropriate consequences for negative behaviour, (including time-out and loss of privileges), encouragement of positive behaviour and recognition of achievement. <https://raisingchildren.net.au/school-age/behaviour>

The British National Health Service (NHS) offers similar support for parents. It has a number of general principles to assist parents when dealing with child behaviour problems. Among these are to consider the situation carefully and behave in a manner which feels appropriate for the wellbeing of all members of the family. It encourages parents to be persistent, consistent, and not to over-react. It recommends that parents talk with their children, do not use violence and reward positive behaviours. <https://www.nhs.uk/conditions/baby/babys-development/behaviour/dealing-with-child-behaviour-problems/> There are online telephone services available to offer help to parents struggling to manage their children's behaviour.

One of these is familylives. <https://www.familylives.org.uk/>

The Child Mind Institute is a United States parent advisory group formed to assist parents whose children struggle with mental health or learning challenges. It recognises that not all families or children will be able to access professional mental health services. Among other things, it offers an online 'Symptom Checker', a 'Resource Finder' and gives online access to appropriate experts. <https://childmind.org/care/>

The generally recommended non-violent childrearing practices require parental anger management. There is help available to assist parents achieve this. In Australia, the Raising Children website assists with recognising and managing anger. It recommends strategies for self-awareness, parents removing themselves from the situation where possible and restorative actions when a situation has got out of hand.

<https://raisingchildren.net.au/guides/first-1000-days/looking-after-yourself/anger-management-for-parents>

There is a general acknowledgement that though childrearing can be difficult, strategies involving physical violence are unsuccessful. The American Psychological Association (APA) argues that physical discipline is both harmful and ineffective. On the question of ineffectiveness, it states, 'Strong and sophisticated longitudinal research... finds physical discipline does not improve behavior and can lead to emotional, behavioral and academic problems over time, even after race, gender and family socioeconomic status have been statistically controlled. Elizabeth Gershoff, PhD, an expert on the effects of corporal punishment on children, states, 'Hitting children does not teach them right from wrong...Spanking gets their attention, but they have not internalized why they should do the right thing in the future. They may behave when the adult is there but do whatever they want at other times.' <https://www.apa.org/monitor/2019/05/physical-discipline>

The physical punishment of children has also been condemned as ineffective in Australia. The Australian Institute of Family Studies states, 'Good evidence suggests that physical punishment does not reduce defiant or aggressive behaviour, nor does it promote long-term positive behaviour in children. A systematic review of 53 studies on the use of physical punishment in schools found that it had negative effects on the academic performance of children and resulted in behavioural issues (e.g., violent behaviour and aggressive conduct).'

<https://aifs.gov.au/resources/short-articles/what-does-evidence-tell-us-about-physical-punishment-children>

#### 4. Laws against physically punishing children will not criminalise parents

Those who support making it illegal to physically punish children claim that this can be done without criminalising parents.

There are numerous jurisdictions where it has been made illegal to physically punish children, but no criminal penalties apply to parents who break the law. France is an example of a country where the law has been changed without legal penalties being put in place. The primary purpose of making corporal punishment illegal within French homes is educative. The intention is to make parents aware that the physical punishment of children is not a practice that is accepted by French society or the French legal system. The law regarding the punishment of children is read out to couples when they exchange their marital vows. The newly-weds are told that 'parental authority is exercised without physical or psychological violence'. <https://www.thelocal.fr/20190702/france-to-ban-smacking-children-and-read-out-new-law-during-weddings/>

Even in jurisdictions where there is some penalty provided for parents who physically punish, this is not generally intended to be put into effect. In 2006, the European Commissioner for Human Rights wrote, 'The purpose of criminalizing all corporal punishment is not, of course, to prosecute and punish more parents...It gives a clear message that hitting children is wrong – at least as wrong as hitting anyone else. Thus, it provides a consistent basis for child protection and for public education promoting positive forms of discipline. As attitudes change, so the need for prosecution and for formal interventions into families to protect children will diminish.' <https://rm.coe.int/children-and-corporal-punishment-the-right-not-to-be-hit-also-a-childr/16806da87b>

Similar points have been made about the purpose and effect of any change in the law regarding the punishment of Australian children. University of Melbourne child clinical psychologist Professor Sophie Havighurst has noted that although 63 nations have now made it illegal for parents to physical punish their children, there has been no increase in prosecutions in these countries. Professor Havighurst argues that changing the law was intended to bring about a cultural change and a change of attitude among parents and that this would be the same in Australia. The professor has stated, 'We don't want the government and police having more involvement in our family lives, but we do know that law change can guide us to use other ways of parenting and that's really important.'

<https://www.dailymail.co.uk/news/article-11309113/Karl-Stefanovic-smacking-ban-Today-host-slams-talk-make-illegal.html>

Those countries where the law has been changed to make the physical punishment of children illegal have noted a progressively greater rejection of corporal punishment among their populations. The European Human Rights Commissioner stated in 2006, 'Whereas in 1965 a majority of Swedes were supportive of corporal punishment, a recent survey found only six

per cent of under-35-year-olds supporting the use of even the mildest forms. Practice has also changed; of those whose childhood occurred shortly after the ban, only three per cent report harsh slaps from their parents, and only one per cent report being hit with an implement... Increased sensitivity to violence against children in Sweden has led to an increase in reporting of assaults, but there has been a declining trend in prosecutions of parents, and a substantial reduction in compulsory social work interventions and in numbers of children taken into care. Public attitudes towards hitting children have changed, which has facilitated early supportive intervention in individual cases.' <https://rm.coe.int/children-and-corporal-punishment-the-right-not-to-be-hit-also-a-childr/16806da87b>

Similar changes in public attitude have occurred in other countries following the outlawing of corporal punishment within the home. In an article published in *The Conversation* on July 26, 2013, Susan Moloney, President of the Paediatrics & Child Health Division, The Royal Australasian College of Physicians, wrote, 'A survey conducted in 2012 found 63 percent of New Zealand parents had never, or only rarely, smacked their child since the law there changed in 2007. Countries that have banned the physical punishment of children have also seen other benefits including increased early identification of children at risk of abuse, and very low rates of mortality associated with child abuse.' <https://theconversation.com/lets-talk-about-making-smacking-children-illegal-16399>

5. Physical punishment against children undermines their legal protections and human rights. Those who oppose the use of physical punishment with children argue that children are currently one of the few groups in Australian society against whom force can be used without their consent. National Children's Commissioner, Anne Hollonds, has stated, 'We know now that you can't hit your boss, your wife or even hit your dog, but at home you can use physical punishment on your own kids.' <https://www.smh.com.au/national/new-data-prompts-call-to-abolish-australia-s-ancient-smacking-laws-20220908-p5bgcu.html>

Laws across Australia offer most citizens protection against assault. There are variations in the definitions of assault from one state to another; however, they have key features in common. One summary definition of what is regarded as assault in Australia states, 'Assault is recognised under Australian law as an offence against the individual, irrespective of the seriousness of the offence. Also, Australian law prescribes various charges for the act of assault.

The act of assault is always intentional and entails reasonable apprehension by the victim of immediate harm irrespective of whether the actual harm has occurred... the offence of assault may take place, for instance, when the perpetrator aims at touching, striking, moving or applying force without the victim's consent.' <https://www.bsglaw.net/the-meaning-of-assault-under-australian-law/> Critics maintain that physically punishing children should not be

exempted from nation-wide Australian laws against assault. Currently, however, corporal punishment in the home is lawful in all Australian states under several different justifications including parents' right to administer 'reasonable chastisement'.

<https://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Australia.pdf>

Only New South Wales has attempted to set clear limits on the degree of force that can be applied. Under section 61AA of the New South Wales Crimes Act, as amended in 2001, physical punishment by a parent or caregiver is considered unreasonable if the force is applied to a child's head or neck, or the force is applied to any part of the body in such a way as to cause, or threaten to cause, harm to the child which lasts more than a short period. In

such cases the defence of 'lawful correction' does not apply and parents or other caregivers can be charged with a crime. <https://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Australia.pdf>

In the absence of clear definitions of 'reasonable chastisement' such punishment may slide into abuse. Critics have argued that it can be easy for an angry, physically punitive parent, to become a frankly abusive one. <https://tinyurl.com/ycemv47m>

Many opponents of the corporal punishment of children point to the United Nations Convention on the Rights of the Child in support of their position. In September 2001, the United Nations Committee on the Rights of the Child called upon all States to 'enact or repeal...their legislation in order to prohibit all forms of violence, however light, within the family and in schools, including as a form of discipline, as required by the provisions of the Convention ...'

The United Nations Convention on the Rights of the Child stresses the obligation to protect children from all forms of violence including cruel or degrading punishment, which conflict with the child's human dignity and right to physical integrity.

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

In May 2006 the United Nations Committee on the Rights of the Child supplied a clear definition of the punishments that should be outlawed. It stated, 'The Committee defines "'Corporal" or "physical" punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting ("smacking", "slapping", "spanking") children, with the hand or with an implement - a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices).

In the view of the Committee, corporal punishment is invariably degrading.'

[https://www.unicef-irc.org/portfolios/general\\_comments/GC8\\_en.doc.html](https://www.unicef-irc.org/portfolios/general_comments/GC8_en.doc.html)

## **Arguments against laws to prevent parents physically punishing their children**

1. Children already have legal protection against abuse and excessive force

Those who oppose alterations being made to Australian law to prevent parents being able to physically punish their children, argue that there are already laws and child protection services in place in every Australian state specifically designed to ensure that children are not subjected to abuse.

Each state and territory in Australia has its own child protection legislation, in addition to Commonwealth legislation. This legislation is designed to protect children at risk of significant harm. Key principles based on human rights conventions and frameworks underpin Australian legislation to ensure it is consistent and upholds children's rights and interests. <https://aifs.gov.au/resources/resource-sheets/australian-child-protection-legislation>

The principles of the United Nations Convention on the Rights of the Child (United Nations, 1989) underpin all of Australia's child protection legislation. The Commonwealth Australian Human Rights Commission Act 1986 (Cth) (AHRC Act) provides guidance on how to uphold the principles in the Convention on the Rights of the Child.

<https://www.legislation.gov.au/Details/C2021C00559> The Australian Capital Territory,

Queensland and Victoria have human rights Acts or charters that also guide their child protection legislation and services. Other jurisdictions do not have human rights Acts but seek to include the protection of human rights within their legislation.

<https://www.humanrights.unsw.edu.au/news/human-rights-acts-around-australia>

The Family Law Act 1975 (Cth) is the key piece of Commonwealth legislation that sets out how child protection concerns raised in federal family law proceedings should be managed, including reporting obligations for family law court staff and mechanisms for courts to obtain information from child protection agencies. Child protection legislation in each state and territory differs according to local needs (Australian Institute of Health and Welfare [AIHW], 2021; Wise, 2017). However, legislation across the Commonwealth, states and territories has similar guiding principles. These principles include acting in the best interest of the child; early intervention and support for families; culturally appropriate care and Aboriginal and Torres Strait Islander Child Placement Principles; and participation of children and young people in decision-making processes. <https://aifs.gov.au/resources/resource-sheets/australian-child-protection-legislation>

Part of the legal protection provided to children in Australia is mandatory reporting of suspected abuse. This requires key groups of people in contact with children to formally report suspected child abuse (generally, physical abuse, sexual abuse, emotional abuse, neglect, and exposure to family violence). <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect>

Paula Gerber, a professor in the Law Faculty at Monash University with expertise in international human rights law, focusing on children's rights has explained, "Children have a right to be safe, and the law imposes what's called 'mandatory reporting obligations' on a number of different professionals. If they have reason to believe that a child is being subjected to violence, abuse or even neglect, then they must report that to child protection services, which falls within the government's Department of Human Services."

<https://www.sbs.com.au/language/english/en/article/childrens-rights-in-australia-what-are-they-and-how-are-they-protected/ouuco3abf>

The occupations most named as mandated reporters are those who deal frequently with children in the course of their work: teachers, early childhood education and care practitioners, doctors, nurses and police. In the Northern Territory, anyone who meets a child is required to report suspected abuse. In addition to this, any person is lawfully entitled to make a report if they are concerned for a child's welfare, even if they are not required to do so as a mandatory reporter. Anyone making a voluntary (non-mandated) report is protected regarding confidentiality and immunity from legal liability if the report proves to be unfounded. <https://aifs.gov.au/resources/resource-sheets/mandatory-reporting-child-abuse-and-neglect>

## 2. Evidence of the harm caused by corporal punishment is inconclusive

Those who defend the right of parents to employ 'reasonable chastisement', including physical punishment, when managing their children's behaviour, argue that much of the evidence supposedly demonstrating that physical punishment harms children is questionable. One of the key objections to some of the research that has drawn negative conclusions about the effects of physical punishment is that its definition of physical punishment has been too broad. Robert Larzelere, professor of Parenting at the Department of Human Development and Family Science, Oklahoma State University and Dr Dem Trumbull of the American

College of Paediatricians have stated regarding this faulted research, 'The first step in assessing the effectiveness of an intervention... is to ensure the intervention is...well-defined.'

[http://webcache.googleusercontent.com/search?q=cache:n7lnNFV\\_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0](http://webcache.googleusercontent.com/search?q=cache:n7lnNFV_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0) Regarding the physical punishment of children, Professor Larzelere has claimed that some studies have grouped research looking at mild forms of physical punishment together with research examining the effects of severe and abusive punishment and so have drawn misleading conclusions. He has drawn attention to 'studies that included severe types of corporal punishment such as "beating with a stick," "still hurt the next day," "burning," and "using a knife or gun."

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1118118/> Summing up the problem, he has stated, 'The research against disciplinary spanking often lumps appropriate spanking together with overly severe physical punishment and punishment that is inappropriate in other ways.'  
<https://mercatornet.com/is-it-harmful-to-smack-your-child/9421/> He argues that research including such extreme forms of punishment does not allow researchers to form accurate conclusions about the effect of the controlled use of mild punishments. He and Trumbell refer to this as 'the lumping fallacy'.

[http://webcache.googleusercontent.com/search?q=cache:n7lnNFV\\_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0](http://webcache.googleusercontent.com/search?q=cache:n7lnNFV_WD0J:https://acpeds.org/position-statements/research-on-disciplinary-spanking-is-misleading&hl=en&gl=au&strip=1&vwsrc=0)

Another of the key criticisms that has been made of studies which claim to show that physical punishment leads to psychological, social, and cognitive harm to children is that causation is not established. Critics maintain, the fact that many people who were physically punished when young subsequently display psychological and developmental issues does not prove that physical punishment caused these later problems. Dr. Stuart Farrimond, a science and medical writer, presenter, and educator, has noted, 'The 'anti-smacking' lobby fail to correctly interpret data: confusing correlation with causality. Higher rates of depression, aggression and mental illness are found in people who were smacked, but this could be for entirely different (e.g., socio-economic) reasons.'  
<https://realdoctorstu.com/2011/10/24/when-is-it-right-to-smack-a-child/>

Some longitudinal studies (that is studies that followed subjects from early childhood until later in life) have found that early apparent links between childhood aggression and physical punishment tended to disappear as the subject matured and continuing aggression appeared to be attributable to other factors. Dr Leonard Eron, a clinical psychologist at the University of Michigan's Institute for Social Research, has stated, 'Upon follow-up ten years after the original data collection, we found that punishment of the aggressive acts at the earlier age was no longer related to current aggression, and instead, other variables...were more important in predicting later aggression.'  
<https://archive.acpeds.org/wordpress/wp-content/uploads/Family-Policy-Spare-the-Rod.pdf>

It has also been suggested that some research findings have confused cause and effect. Research critics argue that subjects who were physically punished as children may already have had psychological and social issues anger management problems and aggression. These critics suggest that pre-existent issues like poor anger management may have led to these subjects being physically punished as children. It may also have been the reason why these children were more often physically punished when young. Mark Penninga of the

Association for Reformed Political Action (ARPA) Canada has stated, ‘The fact that... frequent spanking correlates with worse child outcomes does not... mean that no spanking will lead to the best outcomes. It could instead mean that the best parents use spanking... when needed.’ Making a similar point Penninga also stated, ‘Aggressive children were spanked more often because they were aggressive.’ These critics maintain that inherent predispositions in children, such as toward aggression, may well prompt parental punishment and may also persist into adulthood. They argue that it cannot be proven that the child’s and the later adult’s aggression was caused or worsened by the punishment.

<https://reformedperspective.ca/exposing-the-poor-research-fueling-the-anti-spanking-campaign/>

3. Smacking can be a useful parental management strategy if applied appropriately

Those who argue that it should remain legal for parents to physically punish their children claim that this can be an effective form of discipline.

Supporters of the physical punishment of children all begin by stating that they only support mild physical punishment, administered by parents who are not angry or otherwise out of control and who judge it the most appropriate form of discipline in a given circumstance. Supporters of moderate physical punishment argue that it can sometimes be the most appropriate action to take to manage a child’s behaviour. One of the suggested circumstances is where a child has taken an action that could be dangerous and is too young to understand the parents’ explanation of the hazard involved. This position has been explained on the New South Wales legal assistance site [gotocourt.com.au](http://gotocourt.com.au). The legal advisers state, ‘Physical punishment [can be] a necessary part of educating children about right and wrong behaviour. A smack catches the attention of the child being disciplined in a way that less direct forms of punishment may not. In a situation of physical danger, such as a child trying to run onto a road, a smack can instill fear in the child of the consequences of doing something dangerous and thus keep the child safe.’ <https://www.gotocourt.com.au/criminal-law/nsw/corporal-punishment-children/>

In an opinion piece published in *The Spectator* on October 21, 2017, Brendan O’Neill explained that arguments based on the type of action that would be appropriate when dealing with adults may not be suitable when dealing with children as, by definition, children lack adult maturity. O’Neill stated, ‘Some say that just as you wouldn’t assault an adult, so you shouldn’t “assault” a child. But there are many things we do to children that we wouldn’t dream of doing to adults. We make sure their bottoms are clean after they’ve been to the loo. We forbid them from eating certain things. We tell them to go to bed. We tell them off for getting food on their jumpers. You wouldn’t do any of that to someone over the age of 18. But children are different. They are immature, rash, untrustworthy. They need boundaries. Some parents enforce those boundaries with a slap. Because they love their children.’

<https://www.spectator.co.uk/article/in-defence-of-smacking-children/>

Some of those who argue there is a place for smacking or spanking among a range of strategies that parents use, argue that it should never be the predominant discipline technique employed, but that it has a place as a ‘back-up’ strategy. By this, they mean that brief, moderate, physical punishment can be used to enforce compliance with other punishment strategies. The example most often given is that if children refuse to go to a time-out location as a punishment for misbehaviour, one or two smacks can be used to gain the child’s obedience.

The work of Robert Larzelere, professor of Parenting at the Department of Human Development and Family Science, Oklahoma State University has been used to demonstrate the effectiveness of this technique. A paper published by the American Psychological Association in 2012 stated, 'In a meta-analysis of 26 studies, Larzelere and a colleague found that an approach they described as "conditional spanking" led to greater reductions in child defiance or anti-social behavior than 10 of 13 alternative discipline techniques, including reasoning, removal of privileges and time out.... Larzelere defines conditional spanking as a disciplinary technique for 2- to 6-year-old children in which parents use two open-handed swats on the buttocks only after the child has defied milder discipline such as time out.' Larzelere suggests that back-up spanking should ideally serve as a transition to the exclusive use of non-physical punishment such as time-out.

<https://www.apa.org/monitor/2012/04/spanking#:~:text=Larzelere%20defines%20conditional%20spanking%20as,discipline%20such%20as%20time%20out.>

In an article published in The Times on September 16, 2014, clinical psychologist Dr Jared Pingleton explained the principles generally recommended by those who argue in favour of physical punishment for some children. He wrote, 'Properly understood and administered, spanking is most effective as a deterrent to undesirable behavior for younger preschoolers (but never for infants). That's because reasoning and taking away privileges often simply does not work with kids in that age range. As children age, spanking should become even less frequent as other types of consequences are utilized. Spanking should be phased out completely before adolescence...

We advise parents that corporal discipline...should never be administered harshly, impulsively, or with the potential to cause physical harm.'

<https://time.com/3387226/spanking-can-be-an-appropriate-form-of-child-discipline/>

#### 4. Laws against corporal punishment in the home are intrusive and undermine the role of parents

Those who oppose the laws that prohibit parents using corporal punishment to manage their children argue that these laws undermine the autonomy of parents, preventing them from acting in what they believe is their children's best interests.

In November 2020, Scotland made it illegal for parents to physically punish their children. Those who oppose this new law see it as overturning parents' right to determine how their children should be reared. In an opinion piece published in The Spectator on October 21, 2017, Brendan O'Neill condemned the yet-to-be-implemented legislation. O'Neill claims that the new law is 'the use of legal pressure to force every parent in the land to raise their kids in a way that the cultural elite approves of. It is an attack on parental sovereignty and familial privacy... And it will further throw open the family home and the family itself to the prying eyes of the police and bureaucrats.' <https://www.spectator.co.uk/article/in-defence-of-smacking-children/>

Less than two years later, in March 2022, a law came into force in Wales that also prohibits the physical punishment of children. This law, too, has been criticised as excessive and undermining parents. In a submission made to the Welsh Parliament one complainant warns that the law 'would seriously undermine the principle that parents are responsible for bringing up their children, not the state, council or another body...It is vitally important that parents be held responsible, not only for the good of the children, but because they should not

be made to feel less than competent to decide.’

<https://business.senedd.wales/documents/s92624/CADRP-510-Individual.pdf>

Prior to passing its new law, the Welsh government had a wide range of interviews conducted with focus groups of parents. Most parents appeared to feel that they were in the best position to raise their own children and that the State should not infer in what they choose to do. The report presented to the Parliament states, ‘The majority of the parents felt that knowledge of the individual child...was far more important than theoretical knowledge or outsider expertise when it came to managing their children’s behaviour.’ The report further states, ‘The consensus was that ... as parents and knowing their children well, they were best placed to be the experts making decisions about what was appropriate for their own children.’

<https://www.gov.wales/sites/default/files/statistics-and-research/2018-12/140217-attitudes-parenting-practices-child-discipline-en.pdf>

Under Australian law parents have a set of rights regarding the way they rear their children. These rights are conferred by the Education Act 2004, the Family Law Act 1975 and the Children and Young People Act 2008. The New South Wales Family and Community Services Department has explained these parental rights, stating, ‘The law allows parents to bring up their children according to their own values and beliefs. Decisions such as religion, education, discipline, medical treatment and where the child lives will not be interfered with unless there are good reasons or the child’s well-being is at risk - for example, if there is abuse, if the child is not receiving education or necessary medical treatments.’

<https://www.facs.nsw.gov.au/families/parenting/responsibility-and-rights/parent-duties>

Opponents of proposed anti-smacking laws argue that they would challenge parents’ existing rights to raise their children according to their own standards and ideals, and their right to discipline their children as they choose so long as this is in a manner the law deems reasonable.

It is currently lawful for parents in all states and territories to use 'reasonable' physical punishment to discipline their children. A parent's right to use physical punishment is stated in some state and territory legislation (e.g., New South Wales), while in others it is provided for by the common law or 'judge-made law'. <https://aifs.gov.au/resources/resource-sheets/physical-punishment-legislation>

Opponents of anti-smacking laws argue that decisions about child management should be made by parents, so long as they do not break laws against assault and abuse. In a comment published in the Scottish Daily Mail, on July 18, 2012, then Tory Education spokesperson, Elizabeth Smith, stated, ‘In law there is a very clear difference between the definitions of violent assault and reasonable chastisement. The former is a criminal offence punishable through the courts, the latter is a matter for parents as they decide how to discipline their children. It is not a matter for the state.’ <https://www.pressreader.com/uk/scottish-daily-mail/20120718/281706906798551>

5. Laws against corporal punishment could criminalise parents and see children removed from their homes

Opponents of corporal punishment being made illegal in the family home argue that reassurances that this will not criminalise parents are false. They claim that such laws could see parents face fines and potentially prison terms and could also cause family members to be separated from each other.

The way in which laws opposing corporal punishment operate in Wales have been seen as a warning of how parents and others might be treated in other jurisdictions. In March 2022, it became illegal for anyone in Wales to physically punish a child. Government public information about the new law states, 'From today it is illegal to: smack, hit, slap, shake your child (or physically punish them in other ways).' The government information goes on to warn 'You could face: arrest, being charged with assault, a criminal record'. People who see a child being physically punished have been advised by Welsh government to either call the police if a child is in immediate danger or contact their local social services department.

<https://www.bbc.com/news/uk-wales-60781395>

Critics of the new Welsh law have said it threatens parents and will undermine families. Gareth Davies, the Welsh Conservatives' spokesperson for social services, has stated, 'This guidance flies in the face of the assurances that ministers gave to the Welsh people and there are justified concerns that the police will come under further pressure if the new regime leads to false claims and busybodies taking advantage...

I am very worried about campaigns that encourage a Stasi culture in Wales where people - and children - are encouraged to shop parents, who discipline their children in what they

deem a proportionate manner, to the police.' <https://www.bbc.com/news/uk-wales-60781395>

The Welsh pro-smacking lobby, Be Reasonable, has expressed similar concerns. The group has outlined many problems that could result from the new law. Its information site states, '85% of Welsh adults have been smacked. Outlawing reasonable chastisement will inevitably catch ordinary loving parents and turn them into criminals. The slightest touch could become grounds for an assault charge.

But even if a parent is released without charge, the nature of being arrested and investigated could have a hugely damaging impact on the parent and family. Children may be removed from their parents while an investigation is underway.

Children could be removed from their parents merely on the suspicion of having been smacked.

The smacking ban could be weaponised by divorcing parents or used in family rifts, leaving children in a vulnerable position.' <https://www.bereasonable.wales/en-home/faq/>

A spokesperson for Be Reasonable, James Gillies, told the committee responsible for the ban that 'the ramifications of this Bill are massive for the Welsh public. The government is playing with fire if it thinks it can make this change in the law and not affect the lives of parents, and by extension, children. How many parents are going to have police cautions, which would appear on checks which could potentially affect their employment?

In some cases, this could prevent them from getting a job, even if they are a highly skilled doctor, nurse, or teacher.' <https://mouthsofmums.com.au/wales-introduces-a-ban-on-smacking/>

Similar concerns have been expressed regarding the operation of anti-smacking laws in Scotland. In an opinion piece published in The Spectator on October 21, 2017, Brendan O'Neill condemned the yet-to-be-implemented legislation. O'Neill warns, 'The consequences of the bill will be dire. Loving parents will suffer. The stressed-out mum trying to manage four kids as she negotiates the aisles of Asda and then finds herself lashing out at one of them: grass her to the cops. The traditionalist father who adores his children more than life itself and thinks a smack on the legs is a preferable form of punishment to plonking them on a chair for 15 minutes: drag him to court. The mother who just about stops her boy from running into the road and is so determined to let him know he has just done an incredibly

dangerous thing that she clips him round the ear... what if we witness that? Dial 999?’

<https://www.spectator.co.uk/article/in-defence-of-smacking-children/>

## Further implications

Though the scientific debate still sputters on, the growing bulk of clinical opinion in Australia and among medical authorities around the world appears to be that physically punishing children risks creating life-long psychological, social, and cognitive problems. Despite this, the issue seems a long way from being resolved. Though 70 nations have now outlawed ‘spanking’ or ‘smacking’ children, most of the world has not, and this includes major liberal democracies such as the United States, England, and Canada.

Part of the remaining issue appears to be that a total prohibition of physical punishment seems too extreme for some countries. Not all accept medical authorities’ claims that every physical punishment runs the risk of causing children significant harm.

<https://www.theaustralian.com.au/breaking-news/new-calls-to-criminalise-smacking-and-pinching-children/news-story/658a4ddba68f51f7248c80c1edce7f56> According to these

claims, among Australian children who were physically punished as rarely as four times in their lives up to the age of 24, there is a discernably increased incidence of psychological and social harm.

[https://www.pafra.org/files/ugd/0e4d30\\_ff1d4769926443d39415b774d3ccb44c.pdf](https://www.pafra.org/files/ugd/0e4d30_ff1d4769926443d39415b774d3ccb44c.pdf) These findings echo those of a 2018 United States data review which claimed, ‘Acceptable physical punishment and unacceptable physical abuse...are linked with the same detrimental outcomes for children, just to varying degrees. Euphemisms such as “spanking” have obscured the fact that both physical punishment and physical abuse involve hitting and hurting children emotionally and physically.’ <file:///C:/Users/Alienware/Desktop/audios/Gershoffetal.18.pdf>

Despite, or perhaps because of the scope of such claims, lingering doubts remain in the public mind. Just what is harmful physical punishment? There is popular skepticism that punishment as slight as ‘a little tap on the hand’ or an infrequent ‘smack on the bum’ could cause enduring harm that manifests in adulthood. Examples of this view are presented by the hosts on the Central Coast radio breakfast program ‘Breakfast with Paddy & Rob Palmer’ in a segment broadcast on October 13, 2022. <https://omny.fm/shows/2go-breakfast/should-you-be-allowed-to-smack-your-kids-podcast>

Despite current popular reluctance, there are, however, some practical advantages to a total prohibition. Removing all questions of definition makes a law change easy to enact. This is shown in the case of Wales, where after the country’s new corporal punishment law came into force, all physical punishment of children was outlawed. Justifying its new law, the Welsh government stated, ‘All physical punishment is illegal in Wales. Children have the same protection from assault as adults. This means the law is clear - easy for children, parents, professionals, and the public to understand.’ <https://www.gov.wales/ending-physical-punishment-children#:~:text=What's%20the%20law%20on%20physical,and%20the%20public%20to%20understand.>

Apart from the apparent ease of implementation, there is another advantage to the total prohibition of childhood physical punishment. It removes the defence of ‘reasonable chastisement’ which allows some Australian parents to abuse their children without legal consequence. Currently, in Australia, there are two levels of legislation that seek to protect children from abuse. There is civil child protection law which focuses on whether a child

needs to be safeguarded from future harm (as in being temporarily removed from the family home) and there is criminal child protection law which focuses on establishing the guilt of offenders against children and imposing punishment. Civil law requires a lower level of proof, but under both forms of law it is difficult to establish that child abuse has occurred.

<https://aifs.gov.au/resources/policy-and-practice-papers/what-child-abuse-and-neglect>

Defenders of a ban on any violence against children argue that this makes it far easier to act against child abuse. The First Minister of Wales, Mark Drakeford, claims that ensuring children's right to be protected against abuse is a major benefit of the new Welsh law. He has stated, 'That right is now enshrined in Welsh law – no more grey areas, no more “defence of reasonable punishment”. That is all in the past.'

<https://metro.co.uk/2022/03/23/why-smacking-doesnt-work-and-how-to-use-gentle-discipline-on-children-instead-16316553/>

The same point has been made by an interviewer from Mercator Net, an online public affairs and ethics magazine based in the United States. The interviewer asked, 'There is...an alarming amount of child physical abuse in some quarters of society. Isn't it worth banning physical discipline altogether for the sake of children vulnerable to real abuse?'

<https://mercatornet.com/is-it-harmful-to-smack-your-child/9421/>

Ultimately it appears likely that Australia will go the way of Wales, Scotland and 68 other nations that have banned the physical punishment of children. This is because popular support for such punishment seems to be waning. The 2019 Australia Talks National Survey found that almost half of Australians (47 percent) believed it was acceptable to physically punish children, whilst 38 per cent disagreed. The survey also found that more older participants agreed that smacking was an acceptable form of discipline.

<https://www.nowtolove.com.au/parenting/expert-advice/smacking-children-australia-69767>

In June 2022, recent survey findings showed that less than 40 per cent of the 65+ age group among those who were surveyed support smacking and other forms of corporal punishment as a form of discipline for children and that as the age of respondents dropped, so did their support for smacking. Among those aged between 16 and 24 support was just under 15 percent. <https://7news.com.au/lifestyle/parenting/is-it-wrong-to-smack-your-kids-new-research-says-its-causing-anxiety-and-depression-c-7188494>