WHAT WE ARE

The Repeal 43 Committee is a national, multi-disciplinary volunteer committee of professionals involved with children. It was established in 1994 to advocate repeal of Section 43 of Criminal Code.

The Committee submitted a brief to federal ministers in 1994 advocating repeal and sent copies to interested organizations asking them to write ministers. We have since written articles, other organizations, govt ministers, contacted media, made presentations, and prepared a petition to Parliament. In 2003, we established a website with news on the corporal punishment issue in Canada and other countries which we update periodically.

WHO WE ARE

Members of the Repeal 43 Committee

Anderson, John P., M.D., F.R.C.P.
Paediatrician, Halifax
Burns, Nanci, M.S.W.,
Family Violence Consultant, Ottawa
Chisholm, Barbara, M.S.W., R. S.W.
Child and Family Consultant, Toronto
Claridge, Barbara J., M.Ed.,
Retired Elementary School Principal, Vancouver
Eade, Norman R., D. Phil., M.D.C.M.,
Paediatrician, Montreal (deceased 2005)
Ferguson, Charles A., M.D., C.R.C.P.S.,
Paediatrician, Winnipeg
Greene, Sharon D., M. Sc., LL.B.,
Lawyer, Toronto
Hay, Marie, B.A., M.B., F.R.C.P.,
Paediatrician, Prince George, B.C.
Lamb, Marianne, RN, PhD.,
Professor & Graduate Co-ordinator, School of Nursing, Queen's University
Lynn, Kathy, B.A.
Certified Canadian Family Educator, Vancouver
Messner, Joseph A., Diploma Dolm., (Austria)
Ret'd Children's Aid Society Ex. Dir, Ottawa
Miller, Ruth, M.Ed.,
Sexual Health Counsellor, Toronto
Morningstar, Barbara, B.A., E.C.E.
Adult Educator, Montreal
Pressman, Amy, B.Sc. (Hons.), LL.B.,
Lawyer, Toronto
Rauh, Steven, B.A., M.S.W., Marriage and Family Therapist, Winnipeg
Robertshaw, Corinne, B.A. (Hons.), LL.B.,
Retired Lawyer and Federal P.S., Toronto
Vatcher, Carole-Anne, B.A. (Hons.), M.S.W.
R.S.W. Psychotherapist, Kingston

END LEGAL ASSAULTS ON CHILDREN

SUPPORT REPEAL OF SECTION 43

Section 43 of the Criminal Code
Protection of Persons in Authority
Correction Of Child By Force

Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances. R.S.C., 1985, c. C- 46

REPEAL 43 COMMITTEE
501-111 Merton Street
Toronto, Ontario M4S 3A7

Telephone: (416) 489-9339
Fax: (416) 489-9707
Email: repeal43@sympatico.ca

WEBSITE: www.repeal43.org

Section 43 is wrong in principle, harmful in practice and unnecessary for good discipline. It should be repealed.

2010

Please see our website for further information

Background to Section 43

A 19th century approach to discipline
Section 43 justifies corporal punishment of children by parents, substitute parents and schoolteachers. It is a defence to assault based on 19th century English common law and has been in our Criminal Code since our criminal law was first codified in 1892.

Until the 19th Century, husbands had the right to 'physically chastise' wives under English common law.

Until 1953, our Criminal Code included right of masters to use force to correct apprentices.

Until 1972, the Code allowed persons convicted of certain offenses to be whipped.

Children are now the only remaining class of Canadian citizens who can be legally assaulted for 'correction'.

Repealing S. 43 would not affect the right to use reasonable force in self-defence, defence of others, defence of property, or by persons authorized to administer the law, since these rights exist under sections 25 to 41 of the Code.

Supreme Court limits hitting

In Jan/04, the Supreme Court of Canada ruled on a constitutional challenge to S. 43 filed by an NGO in 1998. Six judges held that S. 43 did not violate the Charter: 3 held it did. The majority held that children age 2 to 12 yrs could continue to be hit by parents if force used was limited to the 'mildest forms of assault' and did not include hits to the head or with objects. All agreed that that S. 43 would no longer apply to teachers. These limits are largely unknown to the public.

Why we advocate repeal

Hitting is wrong – and harmful
Hitting anyone without consent is wrong and an offence under our Criminal Code. Hitting a defenceless person, such as a child is particularly wrong, but allowed by S. 43.

By 'justifying' hitting children, our Criminal Code puts its seal of approval on pain and fear as a method of correction. This violates a basic right to non-violence that all adults take for granted.

To claim a 'mild assault' is not violence is to see such an assault only from an adult perspective – not from that of a child.

Most parents don't want to discipline children by hitting. But as long as our law considers it rightful, it reinforces a practice that is not only wrong but also shown by research to be harmful.

This does not mean that parents must be prosecuted for assault. Most are simply following tradition. Instead of prosecution, most need information and help in adopting effective and non-violent alternatives.

See website Why We Advocate Repeal

The purpose of prohibiting corporal punishment of children is precisely prevention. The idea is to encourage a change of attitudes and practice and to promote non-violent methods of child-rearing. An unambiguous message of what is unacceptable is very important. Adults responsible for children are sometimes confused about how to handle difficult situations. The line should simply be drawn between physical or psychological violence on the one hand and non-violence on the other. **Thomas Hammarberg, Commissioner Human Rights, Council of Europe**

Health Canada against hitting

Health Canada has been advising against spanking for 20 years. See for example:

• *What's Wrong with Spanking*? 2004 'Spanking teaches that hitting others is okay. In the long run, spanking makes children's behaviour worse, not better.'

• *Nobody's Perfect* 1997 'No matter how angry you are, it's never okay to spank children. It's a bad idea and it doesn't work.'

Research against hitting

Many peer-reviewed studies over the past 20 years find an association between corporal punishment and negative outcomes for children.

These outcomes include increased antisocial behavior, aggression and mental health problems of low self-esteem, depression, anxiety and lower cognitive development.

In 2004 a coalition of national organizations led by the Children's Hospital of Eastern Ontario published a review of the research. It recommended children be given the same protection from physical assault as adults and that this right to physical integrity and dignity be recognized by law. The review is published as the *Joint Statement on Physical Punishment of Children and Youth* and endorsed by 380 Canadian organizations.

In 2003, a national study funded by Health Canada found that physical punishment accounted for 75% of substantiated incidents of physical abuse.

See website Research and Joint Statement

Countries against hitting

27 countries now prohibit corporal punishment by parents, including Sweden, Israel, Germany, Greece, Portugal, Romania, Italy (by court decision), New Zealand and Chile. No European countries allow such punishment by teachers.

See website International Developments for full list

UN Convention against hitting

In 1991 Canada ratified the United Nations Convention on the Rights of the Child.

Article 19 of the Convention requires Parties to protect children from all forms of physical or mental violence, injury or abuse.

The UN Committee (UNC) monitors implementation of the Convention and recommends that Parties respect Article 19 by prohibiting corporal punishment of children in the home and school.

The 1995 UNC response to Canada's first report on implementing the Convention recommended that Canada review S. 43, prohibit physical punishment, and launch educational campaigns to foster public acceptance of the need for change in the law.

The 2003 UNC response to Canada's second report was that it is 'deeply concerned' that Canada had taken no steps to remove S. 43.

Canada's 3rd and 4th reports in 2009 simply state that the Supreme Court has held S. 43 constitutional and consistent with obligations under the Convention. The UNC will likely respond to this latest report in 2011.

Senate Bills against hitting

Bill S-209 to repeal S. 43 was studied in May and June/08 by the Senate Committee on Legal and Constitutional Affairs. It recommended amendments prohibiting corporal punishment but retaining the power of parents and teachers to use reasonable force to restrain a child. The Senate passed the bill in June/08 but it died when federal elections were called.

Bill S-207 to repeal S. 43 was studied in June/07 by the Senate Committee on Human Rights and reported back for final reading without amendment but died in Sept/07 when Parliament was prorogued.

See website Senate Bills to Repeal S. 43

Organizations against hitting

Over 200 Canadian organizations have written ministers of justice or listed their names on open letters to MPs advocating repeal of S. 43. Examples are listed below:

National organizations such as:
Canadian Association of Social Workers
Canadian Child Care Federation
Canadian Council for Reform Judaism
Canadian Federation of University Women
Canadian Institute of Child Health
Canadian Nurses Association
Canadian Public Health Association
Child Welfare League of Canada
National Council of Women of Canada
United Church of Canada

Provincial organizations such as:
Association des centres jeunesse du Quebec
B. C. Council for the Family
Family Service Ontario
Manitoba Child Care Association
P.E.I. Victim Services
Nfld/Labrador Foster Families Ass'n
Saskatchewan Ass'n of Social Workers

Local organizations such as:
Catholic Family Services of Saskatoon
Child Abuse Prevention Council, London, ON
Jewish Family Services, Edmonton
Children's Rights Centre, Sydney, Nova Scotia
Many Rivers Counselling Services, Whitehorse
Whole Family Attachment Parents, Calgary
Toronto Public Health

Hospitals
Children's Hospital Eastern Ontario, Ottawa
Pediatric Clinic, Hosp, Ste-Justine, Montreal
Child Protection Cmte, CHUL, Laval
Hosp for Sick Children, Scan Program, Toronto
IWK Health Centre, Dept of Pediatrics, Halifax
Janeway Child Health Centre, St. John's, Nfld
McMaster Children's Hosp, CAPP, Hamilton
Winnipeg Children's Hosp, Child Protection
Women's College Hospital, Toronto

Provincial Child & Youth Advocates in:
B .C., Alberta, Saskatchewan, Ontario, Quebec, New Brunswick, Newfoundland and Labrador

See website Supporting Organizations for full list

To be added to our website list of Supporting Organizations, please write Minister of Justice, Parliament, Ottawa, K1A 0A6 and copy us.

See website How to Support Repeal

I believe that in addition to legal prohibition, sensitization of all actors of society - in particular parents and teachers - to the negative impact of physical violence is a key aspect of the process leading to a non-violent society. Violence should never be legitimized. ***Mary Robinson, Former UN High Commissioner Human Rights, President Ireland***

Self-discipline is a slow-growing plant that roots in children's identification with parents or parent substitutes…The unquestioning obedience so beloved of disciplinarians contributes nothing to the learning process; the punishments that are supposed to insure it are irrelevant, at best, and physical punishments, like spanking, actually sabotage it. Children First, ***Penelope Leach, Ph.D. (Psychology) Author/Lecturer***