

Justice

Criminal Code—Conformity with United Nations Convention on the Rights of the Child

Hon. Lorna Milne: Honourable senators, on November 15, the Regional Municipality of Peel, Ontario passed a resolution calling for the repeal of section 43 of the Criminal Code allowing corporal punishment of children. The region — my region — with a population of more than 1.1 million, consists of the three municipalities of Mississauga, Brampton and Caledon.

Honourable senators, section 43 of the Criminal Code which has been in force since 1892 reads as follows:

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.

In 2004 the verdict of *Canadian Foundation for Children, Youth and the Law v. Canada*, a decision of the Supreme Court of Canada, limited the scope of using section 43 as a defence but did not end it. Limiting legal approval of hitting children by restricting hitting to certain ages, degrees of force and parts of the body is not a viable solution.

In the minds of many Canadians, legal approval for any hitting of children, the most vulnerable members of our society, is harmful and unjust.

As many honourable senators know, the repeal of section 43 of the Criminal Code is the subject of a Senate public bill sponsored by my colleague, Senator Hervieux-Payette. When speaking to Bill S-209 on November 14, Senator Hervieux-Payette urged honourable senators to support this bill after citing a host of experts and organizations who also support the repeal of section 43.

In addition, she noted that while Canada ratified the United Nations Convention on the Rights of the Child in 1991, we are disrespecting the terms of this convention by maintaining section 43 of the Criminal Code.

Honourable senators, 19 other nations have produced concrete measures to comply with this United Nations convention while Canada has remained silent. I strongly believe, and so do the municipalities in my region of Peel, that it should not take a private member's bill for Canada to live up to its international obligations.

Hon. Senators: Hear, hear!