

Equal Protection for Children in the Law

UNICEF Canada Submission: Bill C-273

February 2024

UNICEF works to advance children’s rights and well-being in Canada and globally. To this end, we welcome Bill C-273 to repeal section 43 of the *Criminal Code* that sanctions the use of physical violence against children for the purpose of correction.

Children and youth in Canada are the only people under Canadian law who are not legally protected from physical discipline. Section 43 of the *Criminal Code* is out of step with Canada’s obligations, Canadian attitudes, global advancements, the best interests of children and their right to non-discrimination. Repealing section 43 is a necessary step to protect children from harm; fulfill Canada’s obligations pursuant to the United Nations Convention on the Rights of the Child and the Sustainable Development Goals; and implement the Truth and Reconciliation Commission of Canada Call to Action (no. 6) that recommends the repeal of section 43, stating that “Corporal Punishment is a relic of a discredited past and has no place in Canadian Schools or our homes”.¹

Violent discipline at home is the most common form of violence experienced by children. While teaching children self-control and acceptable behaviour is an integral part of child-rearing in all cultures, some caregivers rely on the use of violent methods, both physical and psychological, to punish unwanted behaviours and encourage desired ones. Caregivers do not necessarily use this type of discipline with the deliberate intention of causing harm or injury to the child. Rather, it sometimes stems from anger and frustration, lack of understanding of the harm it can cause or limited familiarity with non-violent methods. The current sanctioning of physical punishment in law contributes to its perceived acceptability.

While the Convention on the Rights of the Child recognizes and respects the responsibility of families to provide children with direction and guidance, article 19 mandates States Parties to take all appropriate measures, including enacting legislation, to protect children from all forms of violence including while in the care of parents, guardians or other caregivers. Physical punishment violates children’s rights, including their right to be treated with respect for their human dignity and physical integrity. It infringes upon their rights to health, development, education and freedom from cruel, inhuman, or degrading treatment or punishment.²³ States Parties are obligated to take measures to ensure the safety and well-being of children and to protect them from abuse.

The United Nations Committee on the Rights of the Child has provided substantial guidance on States Parties’ obligations concerning violence against children. General Comment No.8 (2006) details children’s rights to protection from corporal punishment, stating that any form of discipline that is violent, cruel or degrading is unacceptable. On four occasions, including its 2022 Concluding Observations to Canada, the Committee on the Rights of the Child has explicitly recommended that Canada amend its *Criminal Code* to prohibit corporal punishment of children in all settings.

In Canada, more than 660 organizations, including UNICEF, have endorsed the Joint Statement on Physical Punishment of Children and Youth, which recommends repealing section 43.⁴ Globally, 63 states have prohibited all corporal punishment of children, including in the home, and a further 26 states have committed to do so.⁵⁶ Canada is a Pathfinder country with the Global Partnership to End Violence Against Children (2018), which has a goal to expand the legal protection of children from physical punishment. The Pathfinder commitment includes implementation of the INSPIRE initiative, which calls

¹ Truth and Reconciliation Commission of Canada (2015). Calls to Action. Winnipeg: TRC. Page 1.

² <https://www.who.int/news-room/fact-sheets/detail/corporal-punishment-and-health>

³ <https://www.end-violence.org/sites/default/files/2022-03/Research-effects-summary-2021.pdf>

⁴ <https://www.cheo.on.ca/en/about-us/physical-punishment.aspx>

⁵ <https://endcorporalpunishment.org/countdown/>

⁶ <https://rightsofchildren.ca/wp-content/uploads/2022/03/Rationale-for-Repeal-of-S.-43-March-2022.pdf>

for the prohibition of all physical punishment of children.⁷ Canada is also a signatory to the 2030 Agenda for Sustainable Development, which includes the responsibility to fulfill Targets 16.1 and 16.2 of the Sustainable Development Goals.⁸

Evidence gathered in Canada and through UNICEF’s global research has confirmed that physical punishment has no positive impact on children and many negative impacts. The profound impact of exposure to violence during early childhood, whether as victims or witnesses, can disrupt the nervous and immune systems, resulting in social, emotional and cognitive impairments. It may contribute to disease, injury, poor mental health and proclivity to perpetuating violence. Such violence can lead to health-risk behaviors including substance abuse and early engagement in sexual activities.⁹ On the other hand, there are evidence-based parenting strategies that have positive impacts on children and the parent-child relationship.

UNICEF Canada recommends that the Standing Committee on Justice and Human Rights adopt Bill C-273.

UNICEF Canada also suggests that the Committee’s report recommend better data collection on the prevalence and impacts of physical punishment. Violence against children in all its forms is frequently underreported, and effective data collection is essential to understand the situation of children and inform targeted interventions. Data collection serves as a crucial tool for monitoring progress and ensuring that the rights and well-being of children meet international human rights standards. As part of its responsibilities to fulfill the Sustainable Development Goals, Canada should measure the indicator agreed for 16.2.1: “Proportion of children aged 1 to 17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month”.

About UNICEF Canada

UNICEF is the world’s farthest-reaching humanitarian organization for children. With a presence in more than 190 countries and territories, we work tirelessly in the world’s most complex situations to bring life-saving aid and long-term support to children and their families. From our role as the world’s largest provider of vaccines, to supporting child health, nutrition and education, we are determined to create a better world for every child. And we won’t give up.

UNICEF Canada works to address and advance children's rights in Canada and around the world. Our life-saving work for every child is funded entirely through voluntary donations. Visit unicef.ca and follow us on Facebook, X/Twitter and Instagram to learn more.

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⁷ <https://rightsofchildren.ca/wp-content/uploads/2022/03/Rationale-for-Repeal-of-S.-43-March-2022.pdf>

⁸ <https://www.un.org/sustainabledevelopment/peace-justice/>

⁹ <https://www.unicef.org/media/73536/file/%20Eliminating-violence-against-children-2007.pdf.pdf>