



29 January 2024
The Honorable Stan Kutcher
Senate of Canada
Ottawa, Ontario
Canada

Dear Senator Kutcher,

UNICEF works to advance children's rights and well-being, championing public policy that protects every child's right to a childhood in Canada and globally. To this end, we welcome Bill S-251, an act 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 violence. Repealing section 43 is a necessary step to protect children from harm; fulfill Canada's obligation pursuant to the UN Convention on the Rights of the Child; 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.

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 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 torture or other forms of 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.

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>

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 and other cruel or degrading forms of 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 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. This may also manifest in behaviors contributing to disease, injury, poor mental health and proclivity to perpetuating violence. Such violence can lead to health-risk behaviors like 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.

Given this, we also urge the Senate to call for 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, for accountability and for 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*. As Senators continue to champion Bill S-251, please consider the importance of data collection as a tool to contribute to creating a safe environment for children.

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>

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>

We hope that the Senate will take this opportunity to repeal Section 43 of the *Criminal Code*. Section 43 is out of step with Canada's obligations, Canadian attitudes, global advancements and the best interests of children. Its legality violates children's rights to equal protection under the law. Children's rights to be free from violence will not be assured in Canada until they have legal protection from being hit.

Sincerely,

A handwritten signature in blue ink that reads "Sevaun Palvetzian". The signature is written in a cursive style with a large initial 'S'.

Sevaun Palvetzian
President and CEO