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Children's right to physical immunity: the legislative situation in Estonia and its implications for education

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Introduction

The development of children is influenced by a diverse range of environmental conditions. According to Bronfenbrenner (1979), the most important of them are what are called micro-systems (family, school and kindergarten) through which the main values and attitudes are formed. Ongoing social changes such as informationalisation and globalisation have brought more distant influences – meso- and macro-systems – closer to children. Many educational values have changed or need to be changed in future, and current legislation also needs to be reviewed critically.

Awareness of children as persons with their own inalienable rights is increasing in European educational discussion. However, this awareness is not always reflected sufficiently in legislation or in societal attitudes. One of the child's rights is the right to physical immunity – children must not be treated in a harmful or cruel way nor punished physically. In all European countries, laws prohibit the corporal punishment of students by teachers, but in many countries legislation is silent about corporal punishment by parents.

The aim of current paper is to analyse attitudes and the legislative situation in Estonia and Europe, to present the results of a study about the disciplinary methods of Estonian parents of pre-school children, and finally to consider the possible implications of the situation for education and teachers.

Corporal punishment and its impact

Corporal punishment is the use of physical force with the intention of causing a child to experience pain, but not injury, for the purposes of correction or control of the child's behaviour (Straus, 1994, p 4). Parents tend to view corporal punishment as most appropriate for pre-school children. Corporal punishment is used primarily with children younger than five years. The age of the child has been linked with the severity of parents' corporal punishment; more severe forms of corporal punishment have used when children are between five and eight years old (Straus, Stewart, 1999). Findings about the relationship between children's gender and parents' use of corporal punishment are mixed (Gershoff, 2002).

There is a large body of research suggesting negative outcomes from corporal punishment. Gershoff (2002) meta-analysed 88 studies (1950-2000) and found that parental corporal punishment is associated with the following undesirable behaviours and experiences: increased child aggression, delinquent and antisocial behaviour, a risk of being a victim of physical abuse, adult aggression, adult criminal and antisocial behaviour, risk of abusing their own child or spouse, decreased moral internalisation, the quality of the parent-child relationship, child and adult mental health. Corporal punishment was associated with only one desirable behaviour, increased immediate compliance. As is commonly believed, corporal punishment contributes significantly to the development of violent behaviour, both in childhood and in later life.

The most common argument against corporal punishment is that it models aggression. It is paradoxical that parents are more likely to use corporal punishment if their child behaves aggressively (see Culp *et al.*, 1999). The association between corporal punishment and children's aggression is one of the most studied and debated findings in child-rearing literature and is also associated with general aggressive tendency in adulthood (Gershoff, 2002). National commissions on violence in the United States, Australia, Germany, South Africa and the UK have recommended banning corporal punishment of children as an essential precondition for reducing violence in society (Global 2005).

Parents' use of corporal punishment can initiate feelings of low self-control in children (Gershoff, 2002) which have negative impact on the children's behaviour in school. Corporal punishment promotes children's external attributions for their behaviour and minimises their attributions to internal motivations (Gershoff, 2002). Motivational difficulties can appear in school with children who tend to attribute to external and not internal factors.

The potential of parental corporal punishment to disrupt the parent-child relationship is considered the main disadvantage of its use (Gershoff, 2002). Child abuse researchers see corporal punishment and physical abuse on a continuum – if corporal punishment is administered too severely or frequently, the outcome can be physical abuse (Kazdin, 2002). Mild punishment in early childhood usually tends to escalate while the child grows older. Undoubtedly any corporal punishment is emotionally harmful to children.

The tendency to use corporal punishment has found to be positively correlated with the size of family (Paquette *et al.*, 2000), and to be associated with parent's educational goals. When parents have parent-centred and short-term socialisation goals, they are more likely to use power-assertive techniques such as corporal punishment than when they have child-centred or long-term goals (Hastings, Grusec, 1998).

Younger parents are more likely to use corporal punishment, and more frequently, than older parents (Culp *et al.*, 1999, Straus, Stewart, 1999). The gender of parent is often linked with use of corporal punishment, with mothers reporting more frequent use (eg Straus, 1994, Straus, Stewart, 1999). Single parents (Loeber *et al.*, 2000) and separated or divorced parents (Gershoff, 2002) have been found to use more corporal and harsh punishment than married parents.

The legislative situation in Estonia and Europe

In 15 states the corporal punishment of children is illegal – 13 of these are members of European Union (Table 1). In 1979 Sweden became the first country in the world to prohibit all kind of corporal punishment of children. The trend towards the elimination of corporal punishment in schools is quite old, dating back as far as the 1700s (1783 in Poland). A large majority of developed countries in the world now prohibit corporal punishment in schools. Singapore has a quite interesting system in which corporal punishment in schools is permitted for boys only (Global, 2005).

Table 1: Legality of corporal punishment in Europe (the year of prohibition in family is shown in parentheses)

Country	Prohibited in the home	Prohibited in schools
Austria	Yes (1989)	Yes
Belgium	No	Yes
Croatia	Yes (1999)	Yes
Denmark	Yes (1997)	Yes
Finland	Yes (1983)	Yes
France	No	Yes
Germany	Yes (2000)	Yes
Greece	No	Yes
Iceland	Yes (2003)	Yes
Ireland	No	Yes
Israel	Yes (2000)	Yes
Italy	No	Yes
Luxembourg	No	Yes
Netherlands	No	Yes
Norway	Yes (1987)	Yes
Portugal	Yes	Yes
Spain	No	Yes
Sweden	Yes (1979)	Yes
Ukraine	Yes (2004)	Yes
United Kingdom	No	Yes
Cyprus	Yes (1994)	Yes
Czech Republic	No	Yes
Estonia	No	Yes
Hungary	Yes (2005)	Yes
Latvia	Yes (1998)	Yes
Lithuania	No	Yes
Malta	No	Yes
Poland	No	Yes
Slovak Republic	No	Yes
Slovenia	No	Yes
Bulgaria (new, join 2007)	Yes (2000)	Yes
Romania (new, join 2007)	Yes (2004)	Yes

Source: Global, 2005

Corporal punishment, like other methods of discipline, can be considered as a strongly cultural phenomenon. The physical punishment of children has been used for a long time in Estonian culture: in the Estonian language there are several proverbs indicating the acceptability of corporal punishment (eg 'the more painful the rod, the more beloved is the child').

In Estonia, children's rights are regulated mainly by three acts of legislation: the Constitution of the Estonian Republic, the Law on the Protection of Children and the UN Convention on the Rights of the Child. Societal changes are a presumption for changing the Law on the Protection of Children. Compared with other European countries, Estonian restrictions in the child protection field are quite mild. In Estonia the Law on

Protection of Children prohibits demeaning the child, and frightening or punishing in a way which causes torture, physical injuries or endangers mental or physical health (*Riigi Teataja*, 1992), but is not directly interpreted as prohibiting any corporal punishment by parents.

The use of corporal punishment tends to be characteristic of many parents. In Estonia some public educational campaigns on the negative consequences of ill treatment and corporal punishment of children have been carried out. Research during one of these campaigns revealed that 75% of Estonian parents still consider corporal punishment an acceptable educational method (Juurak, 2004).

The fact that physical punishment is prohibited in schools but is implicitly accepted in the domestic sphere puts schoolteachers into a very complicated position. For promotion of the development of generally accepted moral behaviour, it is essential that teachers and parents follow the same basic value judgements, but in the present situation it may easily happen that home and school represent opposite viewpoints.

It is argued that such ambiguity in legislation and societal attitudes, and also between the main educators of children – home and school – ultimately results in moral relativism, which is incompatible with the democratic ethos of contemporary citizenship education.

Disciplining methods used by pre-schoolers' parents

Method and sample

A comprehensive study on pre-school children's environment and security was carried out in 2002 in Tartu, Estonia. One of the questions to parents was: 'How often do you use the following disciplinary methods with your child?' Parents had to choose suitable answers from a four-point scale (1=never, 4=frequently). 179 respondents were selected by random criteria from parents of five-six year old children. 51 % were parents of five year olds and 49 % of six year old children. 49 % were parents of girls and 51 % of boys. The mother's mean age was 32.2 and the father's 33.7 years. 76 % of parents were married or cohabiting, and 23 % were divorced or separated. The educational level of parents was: 8% of mothers and 12 % fathers had basic education; 52 % mothers and 51 % fathers were educated to secondary level, and 40 % mothers and 35 % fathers had higher education.

Results

The general results of the disciplinary methods used by parents are presented in Table 2.

Most frequently parents reported the use of reprimanding. Virtually all parents use this way, about 50% very often. The next most frequent option was prohibition of something pleasant – almost 50 % of respondents reported that they used this sanction very often or sometimes. Two next disciplinary methods were connected with children's fears. Parents used threats and frightening their children to ensure their child's safety quite often, and 42% of parents frightened their child with punishment.

Corporal punishment was in fifth place. A majority of parents (about 80%) admitted that they used tweaking and slapping rarely or sometimes. Over 60% of parents use frightening their child to gaining obedience. Almost 40% of parents tended to use harsh corporal punishment, mostly in the form of beating. Often adults think that the rod or

beating is a more harmful corporal punishment than tweaking or slapping. Of course beating causes more physical pain for children, but children themselves often comment at a later age, that the 'lighter' corporal punishments (e.g. tweaking) have been more humiliating. The most rarely used disciplinary method was isolation; the majority of parents never used it.

Table 2: Disciplining methods which parents use (percentages)

Method	Very often	Sometimes	Rare	Never
Reproving	46.4	45.8	7.3	0.6
Prohibiting of something pleasant for child	5.1	41.3	43.8	9.1
Frightening for gaining child's safety	4.4	35.6	34.4	25.6
Threatening	4.4	23.3	33.3	38.9
Tweaking, slapping etc	1.7	19.4	57.1	21.7
Frightening for gaining child's obedience	3.3	14.4	44.4	37.8
Rod, beating etc	0	7.4	29.5	63.1
Isolation	0.6	3.4	13.8	82.2

Across the different age groups of children, one significant difference appeared. Parents of the younger children (five year olds) tended to use more frequently such corporal punishments as tweaking, slapping etc ($t=2.03$, $p<.05$). No differences were found across children's sex.

The two methods of corporal punishment were also in correlation with some characteristics of parents: both parents with lower educational levels used harsh corporal punishment (rod or beating) more frequently than parents with higher education (with mothers' education $_=.37$, $p<.01$ and fathers' $_=.29$, $p<.01$). Interestingly those parents either married or cohabiting tended to use tweaking and slapping more often than divorced or separated parents ($_=.28$, $p<.01$).

Positive correlation were found between lighter punishment (tweaking etc) and children's sleeping difficulties ($_=.31$, $p<.01$). Children who were punished more harshly (rod, beating) tended to avoid the company of peers more frequently ($_=.26$, $p<.05$).

Parents themselves assessed the punishments they used as 4.5% very effective, 71.2% as effective and 24.3% as not effective.

Discussion

Compared with other countries where corporal punishment is accepted (e.g. the US where 94% of parents spank their children when they are pre-schoolers (Straus, Stewart, 1999))

we see from our study that Estonian parents are quite similar in their use of lighter corporal punishment (about 80% of parents reported its use). Fortunately they are less likely to use harsh corporal punishment.

Our results did not support the correlation between the use of corporal punishment, parents' age and children's gender, but relations were found between use of corporal punishment and both parents' educational level and the child's age, which supports the findings of previous studies. The marital status of parents gave an interesting correlation which is contrary to the findings of other researchers. It seems also that corporal punishment negatively influences children's wellbeing (e.g. occurrence of sleeping difficulties) and behaviour with peers (e.g. avoidance behaviour).

Estonian parents are commonly very engaged in work and find too little time for their children, which may increase the risk of use the corporal punishment. Also because of economic difficulties and stratification in Estonia a higher level of stress is possible in such families, which also may increase the tendency to use more authoritarian methods. In the short term it may seem to parents the easiest way to solve children's behavioural problems, notwithstanding the further consequences. But corporal punishment is not 'quick' because it has hidden effects – humiliation, loss of self-esteem, encouragement of aggression and bullying (Global , 2005).

At the same time discussion is going on about increasing violence, aggressive behaviour and school bullying. Parents are more likely to use corporal punishment in the case of child's aggressive behaviour (e.g. Flynn, 1998), and this may increase the frequency of physical punishment because children's behaviour is more aggressive today than earlier. Children are in a complicated situation when aggression is accepted at home but is prohibited at school. Because of corporal punishment at home the child may feel frustrated and tend to 'live it out' in school with teacher or peers. The child who has experienced violence at home may become neurotic or aggressive; both of these possibilities are not good characteristics from the viewpoint of school and learning.

The disciplining of children by schoolteachers is problematic. Discipline and order is needed in school, but children who have been disciplined by corporal punishment at home often cannot understand milder methods. It is not rare in our schools that students do not listen to polite reprimands from the teacher because they know that there are few legal resorts that a teacher can use when children do not follow rules or demands.

A new Law on the Protection of Children is under construction in Estonia: any form of corporal punishment will be prohibited. The plan is good, but three-quarters of parents do not consider corporal punishment unacceptable. This is a complicated situation where many parents do not consider such disciplinary methods as tweaking and slapping as harmful. Corporal punishment has been common in families of Estonian culture, and many parents say that without the rod our children will not grow up to be correct citizens. Parents also think that the adequate implementation by officials will be impossible. Each restriction and new rules may seem frightening and unpleasant for parents: somebody wants to restrict their rights.

Often it is argued that parental attitudes towards corporal punishment cannot be changed through legislation, but the prohibition of any form of corporal punishment is an important measure for the education of the population. It gives a clear message about

what society considers acceptable. It is also a measure to avoid discussions as to what degree or what kind of corporal punishment might be acceptable (Global, 2005).

Children are particularly vulnerable members of society who are not able to defend themselves: thus the protection of their rights needs particularly strict legislative regulation. The aim of changing the legislation is to help change attitudes and values towards children's rights and corporal punishment, but these changes require time. Values and attitudes change slowly, and parents will need help and support from outside in the transition to new attitudes. It will be necessary to try to change the attitudes of both children and adults through campaigns and schooling, and cooperation between school and family is an urgent task. Alternatively the new legislation cannot be implemented. The change of legislation is important step to show the attitudes and acceptances of society and state.

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