

PREVALENCE, SOCIETAL CAUSES, AND TRENDS IN CORPORAL PUNISHMENT BY PARENTS IN WORLD PERSPECTIVE

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I

INTRODUCTION

This article looks at corporal punishment by parents from several angles—from its links to familial behavior patterns to global variations in its use. First, it describes the prevalence of spanking and other legal forms of corporal punishment (CP) around the world. Second, it presents and illustrates a theoretical model arguing that an important part of the causes of CP are to be found in the nature of society. Third, it presents some of the evidence that a world-wide reduction in the use of CP is taking place. Fourth, it suggests changes in society that may be producing the decrease. The bulk of the research¹ leads to the conclusion that CP has harmful side effects, and that conclusion is an underlying assumption of this article.

For the legal community, the information on the prevalence and trends in use of CP and in public attitudes concerning CP is important because the long-standing “reasonable force” defense against prosecution of parents for assault is undergoing change. For example, in response to the changes in public approval of CP described in this article, the standards for judging what constitutes reasonable force are probably changing. Second, a number of nations have removed the reasonable-force defense entirely. Both the European Union and the United Nations have asked all nations to prohibit CP by parents.

The definition of CP that guides this article is “the use of physical force with the intention of causing [bodily] pain, but not injury, for purposes of correction

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1. Elizabeth T. Gershoff, *More Harm Than Good: A Summary of Scientific Research on the Intended and Unintended Effects of Corporal Punishment on Children*, 73 LAW & CONTEMP. PROBS. 31 (Spring 2010).

or control of the child's behavior."² Examples include spanking on the buttocks, hand slapping, shoving, grabbing or squeezing hard, ear twisting, pinching, and putting hot sauce or soap on a child's tongue (for example, for cursing).³

In the United States "spank," and in the United Kingdom "smack," are used by parents and professionals for both the specific act of hitting a child on the buttocks and also, often in the more general sense, of hitting the child in other places to correct misbehavior.⁴ A wide variety of other terms are used such as thrash, beat, belt, warm his butt, whip, and whup. When parents use terms such as beat, thrash, and whip, they usually mean hitting on the buttocks or slapping a child, not the severe attacks that these terms would signify for relationships between adults. They refer to forms of CP that are legal in every state in the United States and in most other nations. In the United States, this includes hitting with culturally traditional objects such as a hair brush or belt, provided no injury results.

For the most part, this article uses the term corporal punishment (CP) because it specifically indicates the body of the child is involved. Physical punishment is a synonym. "Hit" is also a synonym that will be used from time to time to remind readers of the actual act involved. Persons who believe CP is appropriate and necessary may object because, as John Rosemond says in his best-selling book *To Spank or Not to Spank*, calling spanking "hitting" is nothing more than misleading propaganda.⁵ Others may object on the basis of biased terminology because "hit" has a negative connotation. However, "hit" is no more biased than "spank." The difference is in the direction of the bias. "Corporal punishment" and, even more, "spank" describe hitting a child, but with a connotation that these are socially approved and legal acts. There is no neutral word in current use in the English language.

II

PREVALENCE AND CHRONICITY OF CORPORAL PUNISHMENT

Corporal punishment of children has been part of the human experience since time immemorial. The following sections give a brief overview of the extent to which CP is prevalent in the United States and in other nations.

2. MURRAY A. STRAUS, BEATING THE DEVIL OUT OF THEM: CORPORAL PUNISHMENT IN AMERICAN FAMILIES AND ITS EFFECTS ON CHILDREN 4 (2d ed. 2001).

3. See *id.* at 4-5, in which this definition and some of the controversy over appropriate terminology are discussed.

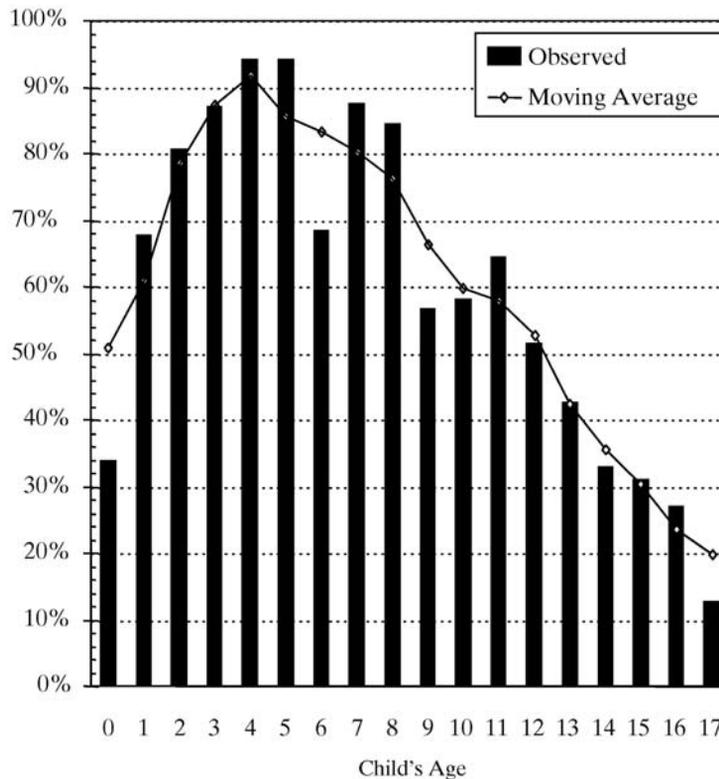
4. See Jean Giles-Sims, Murray A. Straus & David B. Sugarman, *Child, Maternal and Family Characteristics Associated with Spanking*, 44 FAM. REL. 170, 170 (1995).

5. See generally JOHN K. ROSEMOND, TO SPANK OR NOT TO SPANK: A PARENTS' HANDBOOK (1994).

A. North American Studies

Figure 1 shows the percentage of a nationally representative sample of one thousand parents in the United States in 1995 who had used CP in the previous twelve months.⁶

Figure 1. Corporal Punishment Begins With Infants, Is Highest For Toddlers, And Continues Into The Teen Years For Many Children



More than a third of parents had hit an infant that year, for example, slapping the child's hand for repeatedly pushing food off the tray of a high chair. Among parents of preschool-age children, the rate goes up to 94% and then declines. At age thirteen, though, the rate is still over 40%, and at age sixteen it is still one out of four. The most recent study of prevalence in the United States⁷ provides data only for parents of children aged eight and over.

6. Murray A. Straus & Julie H. Stewart, *Corporal Punishment by American Parents: National Data on Prevalence, Chronicity, Severity, and Duration, in Relation to Child and Family Characteristics*, 2 CLINICAL CHILD & FAM. PSYCHOL. REV., 55, 57-60 (1999), reprinted in MURRAY A. STRAUS, EMILY M. DOUGLAS & ROSE ANE MEDEIROS, *THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT IN THE UNITED STATES* (forthcoming 2011) (article reprinted under new title *Prevalence, Chronicity, and Severity*).

7. SUZANNE MARTIN, *YOUTH QUERY METHODOLOGY REPORT 2006 9-10* (Harris Interactive, Inc. 2006).

However, for those parents, the percentages are very close to the data shown in Figure 1; for example, ages eight to ten: 44%, eleven to thirteen: 33%, fourteen to fifteen: 22%, and sixteen to eighteen: 15%.

1. Other Studies of Prevalence

Table 1. Prevalence* and Chronicity of Corporal Punishment of Children of Different Ages					
STUDY	NATION AND SAMPLE	PERIOD	CHILD AGE	% HITS*	Chronicity
USA STUDIES					
Korsch ^d	Mothers in waiting room of Well Baby Clinic, Los Angeles Hospitals. N = 100	Previous 6 months	Under 1 year 1-6 mo. 7-18 mo.	33% 25% 50%	
Duggan, McFarlane, Fuddy, Burrell, Higman, Widham, and Sia ^b	U.S. Parents in Hawaii Healthy Start program Control group. N = 270	Past year	1 2 3	83% 94% 95%	—
Giles-Sims, Straus, and Sugarman ^c	U.S. National Longitudinal Study of Youth. N = 1,385	During Interview Past week	→ 2-3 →	17% 64%	— Times per week 3.2
Holden, Coleman, and Schmidt ^d	U.S. College Educated Mothers, N = 39 (Texas)	Past week	3		Times per week 2.3
Day, Peterson, and McCracken ^e	U.S. National Survey of Families and Households (NSFH) N = 5,474	Previous week	1 11	Boy Girl 50% 51% 21% 13%	<u>Times Boy Girl</u> 1-5 = 44% 43% 6+ = 6% 8% 1-5 = 19% 13% 6+ = 2% 0
* "Prevalence" (hits) indicates the percent in a population are characterized by or have experienced a phenomenon in a given time period.					
a. See generally Barbara Maria Korsch et al., <i>Infant Care and Punishment: A Pilot Study</i> , 55 AM. J. OF PUB. HEALTH 1880 (1965).					
b. See generally Anne Duggan et al., <i>Randomized Trial of a Statewide Home Visiting Program: Impact in Preventing Child Abuse and Neglect</i> , 28(6) CHILD ABUSE & NEGLECT 597 (2004).					
c. See generally Jean Giles-Sims, Murray A. Straus & David B. Sugarman, <i>Child, Maternal and Family Characteristics Associated with Spanking</i> , 44 FAMILY REL. 170 (1995).					
d. See generally G.W. Holden, S.M. Coleman & K.L. Schmidt, <i>Why 3-Year-Old Children Get Spanked: Parent and Child Determinants as Reported by College-Educated Mothers</i> , 41(4) MERRILL-PALMER Q. 431 (1995).					
e. See generally Randal D. Day, Gary W. Peterson & Coleen McCracken, <i>Predicting Spanking of Younger and Older Children by Mothers and Fathers</i> , 60 J. MARRIAGE & FAMILY 79 (1998).					

STUDY	NATION AND SAMPLE	PERIOD	CHILD AGE	% HITS*	Chronicity
OTHER NATIONS					
Newson & Newson ^f	England. N = 700	Past year	1 4 7	62% 97% 56%	Weekly or more 75% 41%
Stattin, Janson, Klackenberglarsson, and Magnusson ^g	Stockholm Sweden Birth Cohort 1955–1958 N = 212	Past year	3	94%	33% at least daily
Durrant ^h	Canada N = 102 Sweden N = 97	Every Week	4	Ever: Canada 71% Sweden 45%	Weekly or more: Canada 33% Sweden 5%
Nobes and Smith ⁱ	England N = 99	Past year	1–11	Father 85% Mother 92% Either: 99%	Weekly or more: Father 25% Mother 26% Either 46%
Kim, Kim, Park, Zhang, and Lu ^j	China & Korea N = 972 children	Past year	11–13	China 42% Korea 49%	
Tang ^k	China – Hong Kong N = 1019 households	Past year	2–16	53%	Times per week 3.3
Maxwell ^l	New Zealand N = 1000 adults	ever	1–4	70%	61% in past week At age 2:
<p><i>f. See generally J. NEWSON & E. NEWSON, FOUR YEARS OLD IN AN URBAN COMMUNITY (1968).</i></p> <p><i>g. See generally H. Stattin et al., Corporal Punishment in Everyday Life: An Intergenerational Perspective, in COERCION AND PUNISHMENT IN LONG-TERM PERSPECTIVES 315–46 (J. McCord ed., 1995).</i></p> <p><i>h. See generally J.E. Durrant, Legal Reform and Attitudes Toward Physical Punishment in Sweden, 11 INT'L J. CHILD. RTS. 147 (2003).</i></p> <p><i>i. See generally G. Nobes & M. Smith, Physical Punishment of Children in Two-Parent Families, 2 CLINICAL CHILD PSYCHOL. & PSYCHIATRY 271 (1997).</i></p> <p><i>j. See generally D. Kim et al., Children's Experience of Violence in China and Korea: A Trans-cultural Study, 24 CHILD ABUSE & NEGLECT 1163 (2000).</i></p> <p><i>k. See generally C.S.-K. Tang, The Rate of Physical Child Abuse in Chinese Families: A Community Survey in Hong Kong, 22(5) CHILD ABUSE & NEGLECT 381 (1998).</i></p> <p><i>l. See generally G. Maxwell, Physical Punishment in the Home in New Zealand, 30(3) AUSTRALIAN J. SOC. ISSUES 291 (1995).</i></p>					

The upper half of Table 1 summarizes results from five other U.S. studies. The table is intended to illustrate the available research, not to be a complete compilation of all such studies. Only studies with rates for a specific age or a small range of ages are included; this is because results for a range of ages, such as ages one through seventeen, combine the high rates for preschool-age children with the lower rates for teenagers. The resulting prevalence percentage can be misinterpreted as describing children of all ages. The first two studies show the prevalence of hitting infants and one-year-old children. The prevalence percentages for this age are consistent with those in Figure 1. The other three studies are for children aged two through eleven. The prevalence percentages range from 77% to 13% depending on the age and sex of the child.

2. Chronicity

How often parents use CP is critically important because many of the adverse effects on children are in the form of a “dose response”—that is, the more frequent the CP, the greater the probability of the adverse side effect. This is illustrated by studies of the relation of CP to depression,⁸ antisocial behavior,⁹ and cognitive ability.¹⁰ The dose-response pattern is also the basis for the erroneous claim that, when rarely used, spanking is harmless.¹¹

Two of the studies reported the average number of times CP was used in the previous week (3.2 and 2.4) and the others reported the percentage of children struck in the previous week. But because these statistics are based on recall by a parent, they should be regarded as lower-bound estimates because, among other reasons, spanking a child is taken for granted and such a frequent event that parents do not realize how often they do it.¹² When mothers used a diary to record their disciplinary tactics, the chronicity of CP was six times greater than when the statistic was based on recall during an interview.¹³

8. Murray A. Straus, *Corporal Punishment of Children and Adult Depression and Suicide Ideation*, in COERCION AND PUNISHMENT IN LONG-TERM PERSPECTIVE 59, 72–73 (Joan McCord ed., 1995); see also MURRAY A. STRAUS, *supra* note 2, at 77–79.

9. Murray A. Straus, David B. Sugarman & Jean Giles-Sims, *Spanking by Parents and Subsequent Antisocial Behavior of Children*, 151 ARCHIVES PEDIATRIC & ADOLESCENT MED. 761, 761 (1997), reprinted in THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT BY PARENTS, COGNITIVE DEVELOPMENT, AND CRIME, *supra* note 6 (reprinted under new title *The Boomerang Effect*).

10. Murray A. Straus & Mallie J. Paschall, *Corporal Punishment by Mothers and Development of Children's Cognitive Ability: A Longitudinal Study of Two Nationally Representative Age Cohorts*, 18 J. AGGRESSION MALTREATMENT & TRAUMA 459, 460 (2009), reprinted in THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT BY PARENTS, COGNITIVE DEVELOPMENT, AND CRIME, *supra* note 6; Murray A. Straus, *Differences in Corporal Punishment by Parents in 32 Nations and Its Relation to National Differences in IQ 2* (Sept. 25, 2009) (unpublished manuscript) (on file with Law and Contemporary Problems).

11. See generally Diana Baumrind, Robert E. Larzelere & Philip A. Cowan, *Ordinary Physical Punishment: Is It Harmful? Comment on Gershoff (2002)*, 128 PSYCHOL. BULL. 580 (2002); Robert E. Larzelere, *Response to Oosterhuis: Empirically Justified Uses of Spanking: Toward a Discriminating View of Corporal Punishment*, 21 J. PSYCHOL. & THEOLOGY 142, 146 (1993).

12. See generally FLORENCE L. GOODENOUGH, *ANGER IN YOUNG CHILDREN* (1931).

13. *Id.*

3. Severity of CP

Table 1 does not take into account the severity of the CP because separate rates of severe but legal CP were provided in only one of the studies. Hitting a child on the buttocks with objects such as a belt, hairbrush, or stick is legal in every state of the United States, provided there is no resulting injury; this also applies to most other nations. In the United States, the use of such traditionally approved objects was presumably extremely common as recently as the 1940s. Even in the 1970s, two-thirds of a random sample of the population of adult women in Texas believed that hitting a child with such objects was acceptable.¹⁴ Actual use of belts and paddles has not subsequently disappeared. More than one in four American parents reported having used such objects on a child ages five to twelve in 1995.¹⁵

B. Studies in Other Nations

The lower half of Table 1 gives the rates of CP found in seven studies in nations in different parts of the world. Differences between nations (in Table 2 below) must be treated with caution because they may be more a matter of differences in the research methods used than differences in what parents do in different nations. Table 1 shows that CP is prevalent in all the nations studied. This does not mean, however, that national characteristics have no influence on the percentage of parents who use CP. For example, the higher the level of economic development of a nation, the smaller the percentage of parents who use CP.

14. See generally RAYMOND H.C. TESKE, JR. & MARY L. PARKER, CRIMINAL JUSTICE CENTER, SPOUSE ABUSE IN TEXAS: A STUDY OF WOMEN'S ATTITUDES AND EXPERIENCES (1983).

15. Straus & Stewart, *supra* note 6, at 60.

Table 2. Percent Who Did Not Strongly Disagree that They Were Spanked or Hit a Lot Before Age 12 <i>All Nations Median: Total = 52%, Males = 54%, Females = 52%</i>							
Percent in High CP Half of Nations				Percent in Low CP Half of Nations			
	<i>Total</i>	Male	Female		<i>Total</i>	Male	Female
China-	74.0	78.1	72.4	Canada	51.0	54.4	49.6
Tanzania	71.7	74.8	67.6	Hungary	50.8	45.8	53.3
South Africa	67.3	66.7	67.4	Lithuania	48.3	57.1	43.8
Mexico	65.7	71.1	64.5	Greece	47.6	63.5	42.1
Singapore	65.4	67.5	64.4	Switzerland	44.2	50.0	41.9
China-H.K.	60.2	65.7	57.9	Romania	41.6	51.9	40.5
United States	60.0	68.3	56.1	Japan	35.7	46.5	25.9
South Korea	59.8	65.6	56.4	Guatemala	33.7	41.8	24.6
Germany	59.4	62.6	57.9	Malta	32.3	40.7	29.9
China	57.6	64.4	54.0	Venezuela	28.1	40.5	20.1
Russia	56.0	61.2	52.6	Israel	22.6	22.4	22.7
Great Britain	55.0	62.0	53.8	Belgium	22.0	27.4	20.4
New Zealand	55.0	48.5	56.9	Portugal	21.5	29.1	17.5
India	54.4	50.8	56.0	Brazil	19.4	27.2	15.7
Australia	52.8	58.7	51.4	Sweden	17.0	19.0	16.4
Iran	52.5	54.2	52.0	Netherlands	14.6	33.3	11.7

4. Corporal Punishment by Parents of University Students in Thirty-two Nations

Rates of CP that can be compared cross-nationally are available for the 17,404 students in the International Dating Violence Study.¹⁶ In each of the nations, the students were asked whether they were “spanked or hit a lot before age 12.”¹⁷ In most of the thirty-two nations, over half of the students were spanked or a hit a lot. The rates ranged from less than one-fifth of the students in the low CP nations (such as Sweden and the Netherlands) to almost three-quarters of the students in the nations where CP was most prevalent (such as

16. Emily M. Douglas & Murray A. Straus, *Assault and Injury of Dating Partners by University Students in 19 Countries and its Relation to Corporal Punishment Experienced as a Child*, 3 EUR. J. CRIMINOLOGY 293, 296–303 (2006).

17. *Id.* at 297. The response categories were (1) strongly disagree, (2) disagree, (3) agree, and (4) strongly agree. The CP rate at each university was measured by the percentage of students who did not “strongly disagree.” This cutting point was based on the assumption that students who did not experience CP would most likely strongly disagree with the statement that they were “spanked or hit a lot.” An exploratory analysis compared correlations using this cutting point with greater than two as the cutting point. The results showed higher correlations with not strongly disagreeing as the criterion.

Taiwan and Tanzania).¹⁸ Table 2 also shows that, in almost all of the thirty-two nations, a larger percent of boys than girls experience CP, which is consistent with many other studies.¹⁹

III

SOCIETAL CAUSES OF CORPORAL PUNISHMENT

When I ask colleagues and parents why some parents spank a lot, others do it rarely, and a few never spank, two explanations predominate. The first is “because some children need more discipline than others”—that is, the explanation lies in the character and personality of the child. The second is that “because some parents don’t know how to handle kids”—that is, the explanation lies in the knowledge, character, and personality of the parent. These are explanations that attribute the cause of CP to characteristics of individual persons, either characteristics of the child or characteristics of the parents. Such *individual-level* explanations are important, but they are only part of the explanation. This is shown by the correlation coefficient of 0.34 between the amount of misbehavior by a child and his or her parent’s use of CP.²⁰ A correlation of 0.34, which is statistically significant, is larger than the usual correlation in child-development research and is more than enough to instill confidence in the conclusion that parents often spank to correct misbehavior. It also indicates, though, that only twelve percent of differences in use of CP are attributable to differences in the misbehavior of their children. Consequently, researchers and educators need to attend to other causes that lead to hitting children. This article is intended to contribute to that more-complete explanation of why parents use CP by identifying some of the *societal* causes.

By “societal causes” I mean the ways in which the nature of society raises or lowers the probability of a parent’s hitting a child to correct misbehavior. Figure 2 identifies three categories of societal causes: distal, mezzo, and proximal. These categories are simply a convenient framework and are not intended to be an exhaustive explanation. Some of the factors listed under one category could plausibly be placed in one of the other categories. These categories correspond roughly with the ecological framework developed by others.²¹

18. *See generally id.* A limitation of data based on this question is that, because the peak years for CP are for preschool-age children, and because much of what happens at those ages is not remembered, the percentages are likely to be underestimates of the prevalence of CP. The percentages are further reduced because the question asked about being spanked or hit “a lot.” Thus, students who were only occasionally hit are not included. Despite that, the rates shown in Table 2 are high.

19. Giles-Sims et al., *supra* note 4, at 171; Straus & Stewart, *supra* note 6, at 62.

20. J.P. Colby Jr. & Murray A. Straus, in *THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT BY PARENTS, COGNITIVE DEVELOPMENT, AND CRIME*, *supra* note 6.

21. *See generally* URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT: EXPERIMENTS BY NATURE AND DESIGN* (1979); James Garbarino, *A Preliminary Study of Some Ecological Correlates of Child Abuse: The Impact of Socioeconomic Stress on Mothers*, 47 *CHILD DEV.* 178, 183–85 (1976); Bridget Freisthler, Darcey H. Merritt & Elizabeth A. LaScala, *Understanding the Ecology of Child Maltreatment: A Review of the Literature and Directions for Future Research*, 11 *CHILD MALTREATMENT* 263, 272–73 (2006).

FIGURE 2. THEORETICAL MODEL OF *SOCIAL* CAUSES OF CORPORAL PUNISHMENT (CP) AND FEEDBACK LOOPS
(Examples of direct and indirect causes)

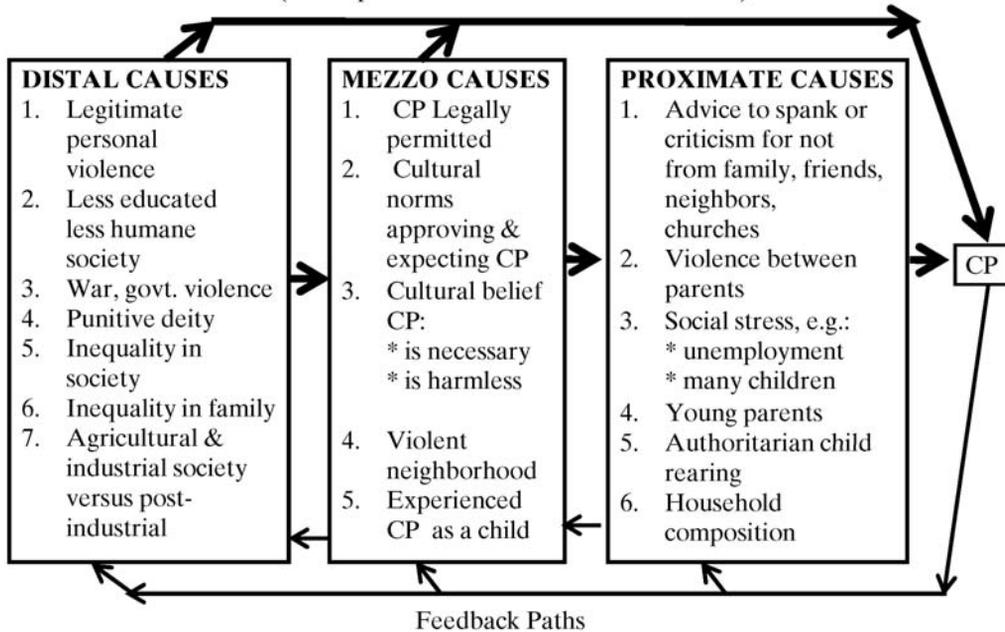


Figure 2 is based on the results of empirical research. However, it is a theoretical model in the sense of presenting explanations to be tested. Moreover, because of space limitations, and because the purpose of this article is to present a theory, not to provide proof of the theory, the text presents or cites empirical evidence on only one or two examples of the hypothesized causal factors identified for each of the three types of causal processes.²²

A. Distal Causes

For purposes of this article, a “distal cause” is a characteristic of society that has no manifest relation to the use of CP but that nonetheless increases the probability of the characteristics listed in Figure 2 as mezzo causes. These

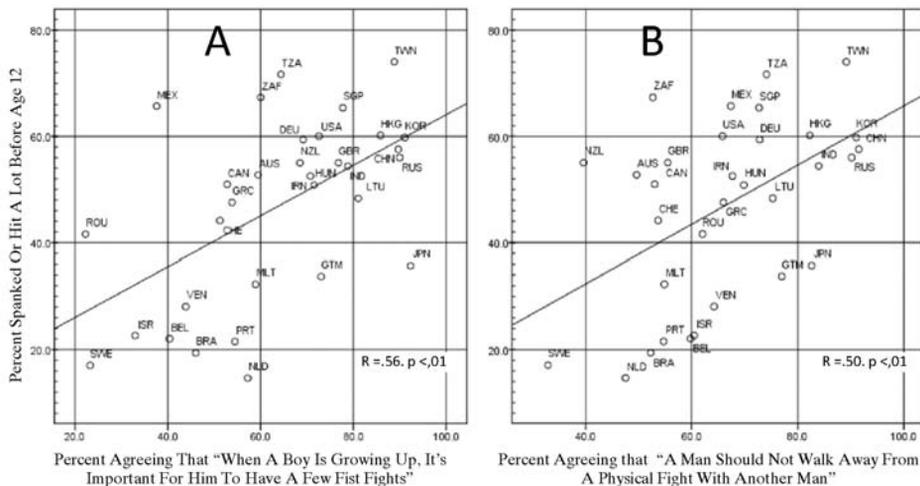
22. Three limitations of Figure 2 need to be kept in mind: First, though all the variables in Figure 2 have been linked to some type of interpersonal violence, not all have been linked to the specific type of violence known as CP. They are included on the basis of *assuming* that, because they are linked to other types of physical violence, they are likely to also be linked to CP. Second, there is little empirical evidence on the links between distal, mezzo, and proximate causes, and even less evidence on the feedback loops shown at the bottom of Figure 2. Third, use of “cause” is based on a *theoretical assumption* that the social characteristics identified in Figure 2 are causes, but the actual evidence only tells us that they are linked, not the causal direction. In many cases, the most plausible interpretation is a bidirectional relationship, as for example, the link shown in anthropological studies of the relation between the proneness of a society to warfare and CP—societies high in warfare are more likely to use CP, and societies that use CP are more likely to conduct wars.

mezzo causes, in turn, increase the probability of the proximal causes, and hence, ultimately result in more parents hitting children as a means of correction and control.

1. Cultural Norms Approving Violence

The “cultural spillover” theory of violence holds that violence in one sphere of life tends to increase the probability of violence in other spheres of life. Research has shown that, the more violence is used for socially legitimate purposes, the greater the probability of criminal violence.²³ It follows from this theory that one of the root causes of CP may be social norms approving types of violence *other* than parents hitting children. The International Dating Violence Study²⁴ provided data on thirty-two nations to test the hypothesis that the greater the approval or acceptance of other types of violence, the greater the percentages of parents who hit children to correct misbehavior. Approval of other violence was measured by responses to two questions by the 17,404 students in the International Dating Violence Study. The left side of Figure 3 shows the results for the first of these questions.

Figure 3. The More Cultural Approval Of Violence In A Nation, The More Use of Corporal Punishment By Parents



AUS Australia; BEL Belgium; BRA Brazil; CAN Canada; CHE Switzerland; CHN China; DEU Germany; GBR Great Britain; GRC Greece; GTM Guatemala; HKG Hong Kong; HUN Hungary; IND India; IRN Iran; ISR Israel; JPN Japan; KOR South Korea; LTU Lithuania; MEX Mexico; MLT Malta; NLD Netherlands; NZL New Zealand; PRT Portugal; ROU Romania; RUS Russia; SGP Singapore; SWE Sweden; TWN Taiwan; TZA Tanzania; USA United States; VEN Venezuela; ZAF S Africa.

The higher the percent of students in a nation who agreed that “[i]t is important for boys to get in fist fights when growing up,” the higher the percent of students in the nation who reported being “spanked or hit a lot before age

23. See LARRY BARON & MURRAY A. STRAUS, *FOUR THEORIES OF RAPE IN AMERICAN SOCIETY: A STATE LEVEL ANALYSIS* 125–46 (1989).

24. Douglas & Straus, *supra* note 16, at 296–303.

12.” The right side of Figure 3 shows that the higher the percent in a nation who agreed that “[a] man should not walk away from a fight,” the higher the percent of students who were spanked or hit a lot as a child.²⁵ The relationships in Figure 3 are listed in the “distal causes” part of Figure 2 because they are about approval of violence in situations other than that of parents hitting children. But as theorized, that approval is correlated with approval of and use of CP.

Studies of individuals within a society have also found a link between approval of violence and approval of CP. For example, among college students, the greater the approval of war and of violence to control prison inmates, the greater was approval of CP.²⁶ A different national survey prompted in part by the national anguish over the invasion of Iraq and the steps taken to combat terrorism, included the following question: “Do you think the United States is sometimes justified in using torture to get information from a suspected terrorist, or is torture never justified?”²⁷ Overall, 38% of the participants in the survey believed torture is sometimes justified, 52% believed it is never justified, and 10% said they did not know or gave some other answer. The participants who believed torture was sometimes justified were about a third more likely to believe that spanking was necessary than those who said torture was never justified. In another nationally representative sample of American parents, of the parents who agreed that “[w]hen a boy is growing up, it is important for him to have a few fistfights,” 84% used CP, as compared to only 38% of those who strongly disagreed that boys should get in a few fistfights when growing up.²⁸

In most nonliterate tribal societies, as in literate societies, parents hit their children; and these societies are also prone to violence between adults.²⁹ There are some isolated tribal societies in which parents almost never hit children,³⁰ but these are rare exceptions. Yet these exceptions are important because they are societies in which relationships between adults also tend to be nonviolent.³¹ Thus, the link between CP and other types of violence at the individual level applies to differences between societies. Other anthropological research has

25. Although the graphs in this and other figures are bivariate, the statistical tests used multiple regression to control two variables that could cause spurious results: the percent female in each sample of students in each nation, and score on a scale to measure the tendency to avoid disclosing socially undesirable beliefs and behavior. All results presented in these figures are statistically significant at the 0.05 level (one-tailed tests).

26. See generally Craig A. Anderson et al., *Development and Testing of the Velicer Attitudes Towards Violence Scale: Evidence of a Four-Factor Model*, 32 *AGGRESSIVE BEHAVIOR* 122 (2006).

27. THE SCRIPPS SURVEY RESEARCH CENTER AT OHIO UNIVERSITY, SURVEY: SHOH34 (2006), available at <http://newspolls.org/surveys/SHOH34>; see Julie H. Stewart & Murray A. Straus, *Approval of Violence*, in *THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT BY PARENTS, COGNITIVE DEVELOPMENT, AND CRIME*, *supra* note 6.

28. See generally Straus & Stewart, *supra* note 6.

29. See generally Carol R. Ember & Melvin Ember, *Explaining Corporal Punishment of Children: A Cross-Cultural Study*, 107 *AM. ANTHROPOLOGIST* 609 (2005).

30. See generally LEARNING NON-AGGRESSION: THE EXPERIENCE OF NON-LITERATE SOCIETIES (Ashley Montagu ed., 1978).

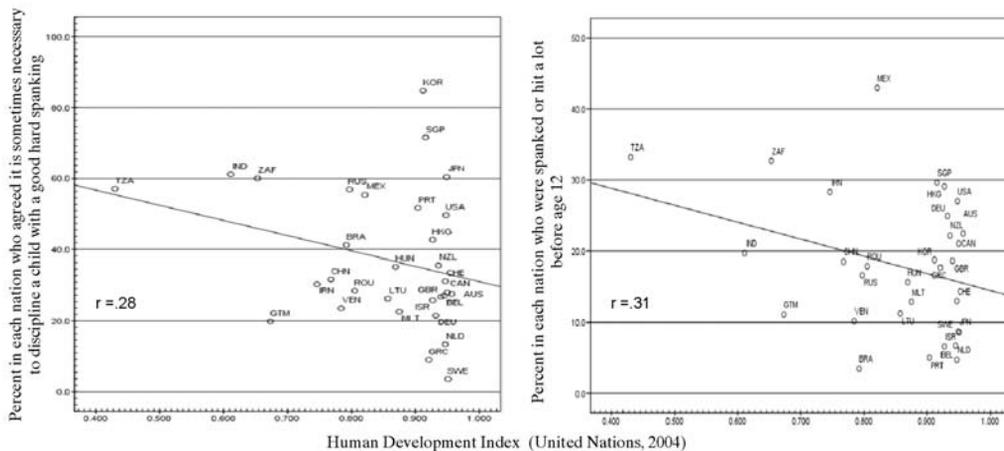
31. See generally *id.*; DAVID LEVINSON, *FAMILY VIOLENCE IN CROSS-CULTURAL PERSPECTIVE* (1989).

found that the more a society engages in culturally approved violence, such as warfare, the more intrafamily violence occurs, including CP.³²

2. Level of Education and Social Development

The second example of distal causes in Figure 2 is a low national level of education and societal development. This was included in the theoretical model because previous research has shown that the level of societal development is correlated with a reduction of all types of individual person-to-person violence, including homicide.³³ If this theory is correct, the level of societal development should be associated with less violence against children in the form of CP.

Figure 4. The Higher The Score Of A Nation On The Human Development Index, The Fewer University Students Who Approve Of Corporal Punishment And The Fewer Who Were Hit By Parents



AUS Australia; BEL Belgium; BRA Brazil; CAN Canada; CHE Switzerland; CHN China; DEU Germany; GBR Great Britain; GRC Greece; GTM Guatemala; HKG Hong Kong; HUN Hungary; IND India; IRN Iran; ISR Israel; JPN Japan; KOR South Korea; LTU Lithuania; MEX Mexico; MLT Malta; NLD Netherlands; NZL New Zealand; PRT Portugal; ROU Romania; RUS Russia; SGP Singapore; SWE Sweden; TWN Taiwan; TZA Tanzania; USA United States; VEN Venezuela; ZAF S Africa³¹

32. See generally Marshall H. Segall, Carol R. Ember & Melvin Ember, *Aggression, Crime, and Warfare*, in THE HANDBOOK OF CROSS-CULTURAL PSYCHOLOGY 213 (John W. Berry et al. eds., 1997); LEVINSON, *supra* note 31; Carol R. Ember & Melvin Ember, *War, Socialization, and Interpersonal Violence: A Cross-Cultural Study*, 38 J. CONFLICT RESOL. 620 (1994); Carol R. Ember & Melvin Ember, *supra* note 29, at 617.

33. See Manuel Eisner, *Modernization, Self-Control, and Lethal Violence: The Long-Term Dynamics of European Homicide Rates in Theoretical Perspective*, 40 BRIT. J. CRIMINOLOGY 618, 619 (2001) (describing the person-to-person violence as the “civilizing process”). See also generally NORBERT ELIAS, THE CIVILIZING PROCESS: THE HISTORY OF MANNERS (1978).

The left half of Figure 4 shows that a nation's higher score on the Human Development Index³⁴ corresponds to a lower percentage of students who agreed that it is sometimes necessary to discipline a child with a good, hard spanking. The right hand side of Figure 4 shows that societal development was also strongly associated with less actual CP recalled by the students in those nations.

Figure 4 also illustrates the theory that the distal causes are part of the explanation of nation-to-nation difference in the mezzo causes. The left side of Figure 4 shows that the level of societal development (a distal cause) is associated with an increased probability of social norms approving CP (a mezzo cause according to this theory).

B. Mezzo-level Causes

1. Legality of Corporal Punishment

Perhaps the most important mezzo causes of hitting children are cultural norms embedded in laws that give parents the right to use CP. Hebrew biblical law specifies extremely harsh punishment to correct disobedient children; for example, "This son of ours is stubborn and rebellious and all the men of the town shall stone him to death."³⁵ In contemporary U.S. law, the legality of CP is typically in the form of a provision in the criminal law that gives parents immunity from prosecution for assault when "reasonable force" is used for purposes of correction and control.³⁶ What is "reasonable force" has been ruled by courts in many states to include hitting a child with a belt or hairbrush, provided there is no lasting injury.

It may seem obvious that legal permission to hit misbehaving children will result in more parents doing so and that legal prohibition will result in less use of CP. But it is difficult to determine if that is the case because a decrease in CP subsequent to the enactment of a legal prohibition of CP may simply reflect the continued effect of a preexisting set of causes that led to the legal change. Empirical investigation is needed to determine the degree to which legislation affects this aspect of parental behavior and the circumstances under which the laws are more and less effective. The only research that has tracked the percentage of parents using CP before and after legislation prohibiting CP are for Sweden³⁷ and Germany.³⁸ These studies found large reductions in use of CP, especially severe CP.

34. UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 2006, BEYOND SCARCITY: POWER POVERTY AND THE GLOBAL WATER CRISIS 283-87 (2006).

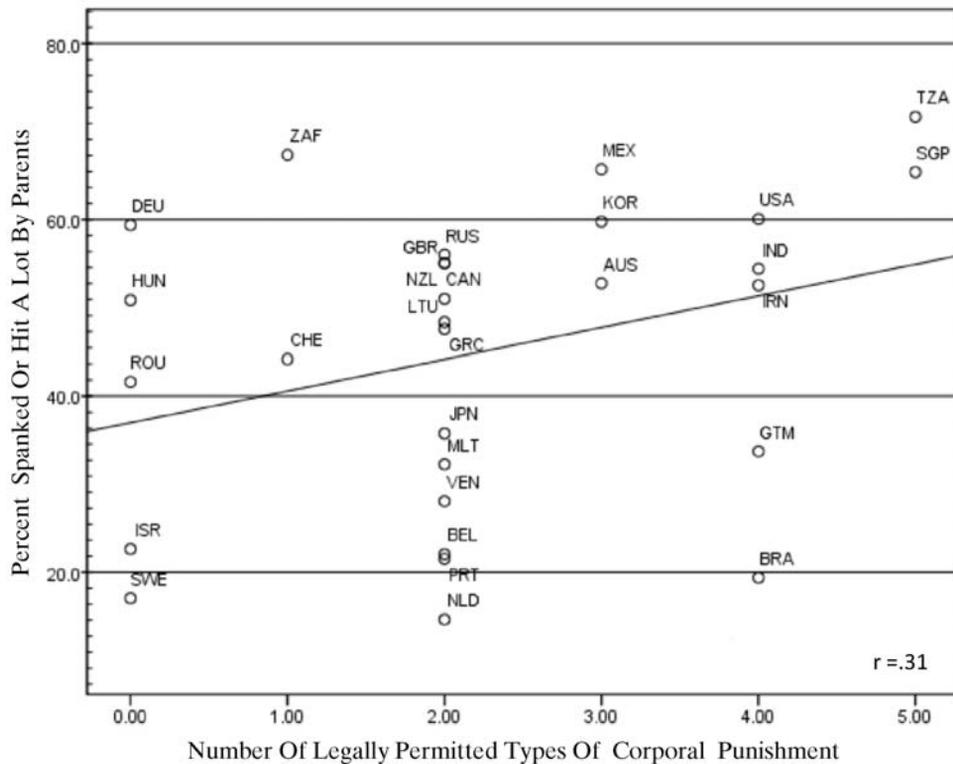
35. *Deuteronomy* 22:12.

36. STRAUS, *supra* note 2, at 6.

37. See generally Joan E. Durrant, *Trends in Youth Crime and Well-Being Since the Abolition of Corporal Punishment in Sweden*, 31 YOUTH & SOC'Y 437 (2000) [hereinafter Durrant, *Trends in Youth Crime*]; see also Joan E. Durrant, *Evaluating the Success of Sweden's Corporal Punishment Ban*, 23 CHILD ABUSE & NEGLECT 435, 437 (1999) [hereinafter Durrant, *Sweden's Corporal Punishment*].

38. Kai-D. Bussmann, *Evaluating the Subtle Impact of a Ban on Corporal Punishment of Children in Germany*, 13 CHILD ABUSE REV. 292, 295 (2004).

Figure 5. The More Legally Permitted Uses of Corporal Punishment
The Higher the Percent Of Children Spanked Or Hit A Lot



Was it the legal prohibition that led to less CP? Or was it nations where CP was already less prevalent that crystallized that aspect of their culture by enacting no-spanking legislation? Probably it was both; that is, a bidirectional influence between existing patterns and legal changes is likely. A more-definitive conclusion will require longitudinal research in which the percentage of parents using CP can be tracked over the decades in nations that have and have not prohibited CP by parents.³⁹

2. Cultural Norms Approving and Expecting CP

Although ancient biblical and early colonial American law may have required CP, current American laws only permit CP; they do not require it.

39. Another point illustrated by Figure 5, and one which applies to all the graphs in this article, is that the presumed causal variables in each graph explain only a small part of the nation-to-nation differences in use of CP. This is despite the fact that all the relationships graphed are statistically significant and most of the "effect sizes" are larger than those typical of most research in epidemiology, psychology, and sociology. For example, in the first column of Figure 5, the percentage of students who experienced a lot of CP ranged from 16% (Sweden) to 60% (Germany). Thus, there is a lot of variation above and below the average in each column of Figure 5 and the other graphs.

Informal cultural norms, though, encourage and sometimes require CP.⁴⁰ Both the prevalence of these norms and the changes can be seen in surveys over the last fifty years. The surveys asked nationally representative samples of Americans if they agreed or disagreed that it is sometimes necessary to spank a child. In 1968, ninety-four percent of a nationally representative U.S. sample agreed.⁴¹ There are not many aspects of parent behavior on which ninety-four percent of the population agree. Another indication of the strength of this cultural norm was ironically manifested during the 1970s when every U.S. state passed legislation defining child abuse and establishing child-protective-service agencies. In order to get state legislatures to pass these laws, it was necessary to include a provision declaring that nothing in the bill prohibits parents from using CP.

Nevertheless, belief in the necessity of CP is declining. There have been a number of surveys since 1968. The percentage who believed that spanking was sometimes necessary declined gradually over the next six surveys to 68% in 1994⁴² and has stayed at around 70% since then, including a 2005 national survey that found that 72% agreed it is “sometimes ok to spank a child.”⁴³ A New Zealand study found similar percentages and a similar trend.⁴⁴

A previous section of this article showed a strong relationship between attitudes approving CP by parents and actual use of CP.⁴⁵ Figure 6 shows that this relationship also applies to the relation of differences between nations in the percentage of the population who believe that CP is sometimes necessary and the percent in a nation who approve of use of CP.

40. See Wendy Walsh, *Spankers and Nonspankers: Where They Get Information on Spanking*, 51 FAM. REL. 81, 81 (2002).

41. Murray A. Straus & Anita K. Mathur, *Social Change and Trends in Approval of Corporal Punishment by Parents from 1968 to 1994*, in FAMILY VIOLENCE AGAINST CHILDREN: A CHALLENGE FOR SOCIETY 91, 97 (D. Frehsee et al. eds., 1996), reprinted in THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT IN THE UNITED STATES, *supra* note 6 (updated version reprinted under new title *The Decline in Public Support*).

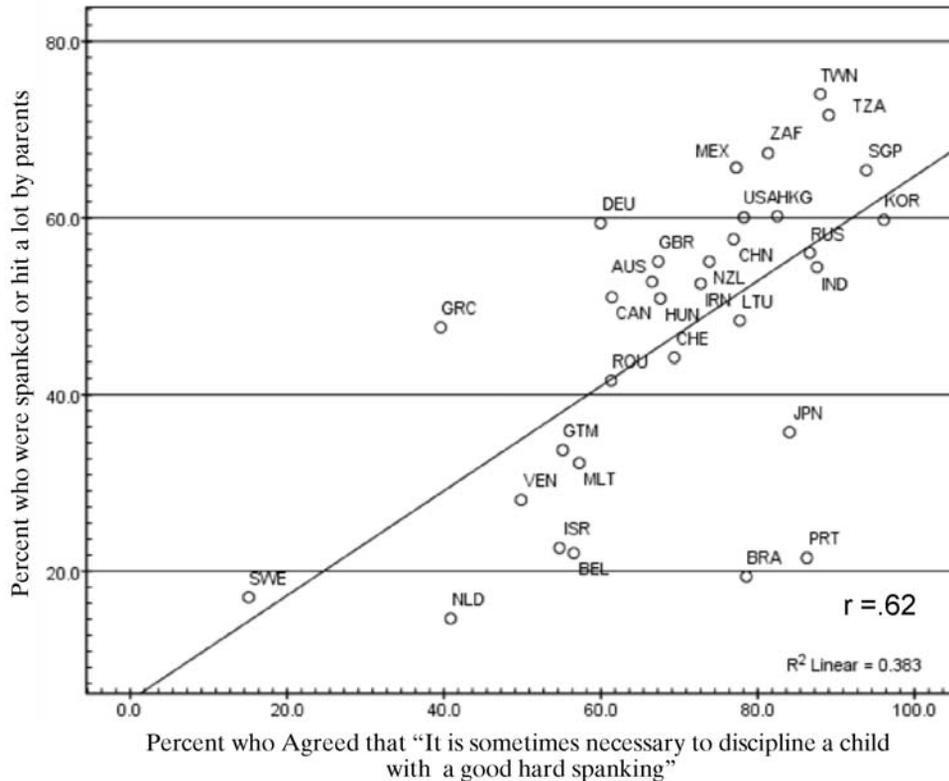
42. *Id.*

43. *Disciplining a Child*, SURVEYUSA, <http://www.surveyusa.com/50statedisciplinechild0805sortedbyteacher.htm> (last visited on Sept. 6, 2010).

44. See generally SUE CARSWELL, SURVEY ON PUBLIC ATTITUDES TOWARDS THE PHYSICAL DISCIPLINE OF CHILDREN (Ministry of Justice, 2001).

45. See generally Christine A. Ateah & Joan E. Durrant, *Maternal Use of Physical Punishment in Response to Child Misbehavior: Implications for Child Abuse Prevention*, 29 CHILD ABUSE & NEGLECT 169 (2005); Brigitte Vittrup, George W. Holden & Jeanell Buck, *Attitudes Predict the Use of Physical Punishment: A Prospective Study of the Emergence of Disciplinary Practices*, 117 PEDIATRICS 2055, 2059–60 (2006).

Figure 6. The Stronger The Belief In A Nation That Spanking Is Necessary, The Larger The Percent Of Students Who Experienced Corporal Punishment



The horizontal axis of Figure 6 gives the percentage of university students in the thirty-two nations in the International Dating Violence Study who believed that “[i]t is sometimes necessary to discipline a child with a child a good hard spanking.” Sweden, where a no-hitting law has been in effect since 1979, has the lowest percentage of students who believed that spanking is sometimes necessary. From there, the percentage in the next lowest nation, the Netherlands, is more than double. In most of the thirty-two nations, sixty percent or more of the students believed that a hard spanking was sometimes necessary, and in some nations such as Singapore and Korea, the percentage is over ninety.⁴⁶

The last example of empirical results illustrating the mezzo causes of parents hitting children is the level of violence in the neighborhood. The theory underlying this link is that human societies are social systems in which each component of the system tends to affect the other components,⁴⁷ including the

46. The percent believing that CP is sometimes necessary is based on classifying students who did not “strongly disagree” as believing it is sometimes necessary. See *supra* note 17 for an explanation of this classification.

47. See generally WALTER BUCKLEY, *SOCIOLOGY AND MODERN SYSTEMS THEORY* (1967).

level of violence in each component.⁴⁸ Specifically, as indicated in the discussion of the relation of socially legitimate violence to criminal violence,⁴⁹ the methods of dealing with conflict in one sphere of life tend to carry over to other spheres. Violence between adults is typically carried out to correct the perceived misbehavior of the target. That applies to almost all violence, ranging from slaps and punches to homicide⁵⁰ and war.⁵¹ For example, in 71% of the murders in Philadelphia from 1948 through 1952, the motives were interpersonal disputes such as insults, curses, shoving, et cetera (37%); domestic quarrels (13%); sexual infidelity (11%); and arguments about money (10%).⁵² That pattern continues. The United States Uniform Crime Reports show that 72% of U.S. homicides fell into these categories.⁵³

The theory that more neighborhood violence corresponds to more parent-to-child violence was tested in a study of a national sample of 1,649 families in Israel in 2000–2001.⁵⁴ The neighborhood in which each family lived was classified as low, middle, or high in violence. Even after controlling for variables such as the socioeconomic level of the neighborhood and the children's misbehavior level, there was a statistically significant increase in use of CP from 15% in the low-violence neighborhoods to 24% in the middle-violence level neighborhoods, to 36% in the high-violence neighborhoods.

C. Proximal Causes

1. Normative Advice and Sanctions

To a considerable extent, the cultural norms discussed in the previous section take effect through individual adherence to internalized beliefs. But for norms to be maintained, societies also need social mechanisms in the form of advice and rewards for conformity and penalties for nonconformity. Two studies provide data on this process.

In one of these studies, the researcher screened a large number of parents to find the few mothers who never used CP.⁵⁵ The other parents criticized these mothers for “not disciplining” their children. The non-spanking mothers, in

48. See generally Murray A. Straus, *A General Systems Theory Approach to a Theory of Violence between Family Members*, 12 SOC. SCI. INFO. 105 (1973).

49. See part III for a discussion of the “cultural spillover” theory.

50. See generally FRANKLIN E. ZIMRING & GORDON HAWKINS, *CRIME IS NOT THE PROBLEM: LETHAL VIOLENCE IN AMERICA* (1997).

51. See generally SURVEYUSA, *supra* note 43.

52. See MARVIN E. WOLFGANG, *PATTERNS IN CRIMINAL HOMICIDE* 191 (1958).

53. See generally FEDERAL BUREAU OF INVESTIGATION, *UNIFORM CRIME REPORTS: CRIME IN THE UNITED STATES, 1993* (1994).

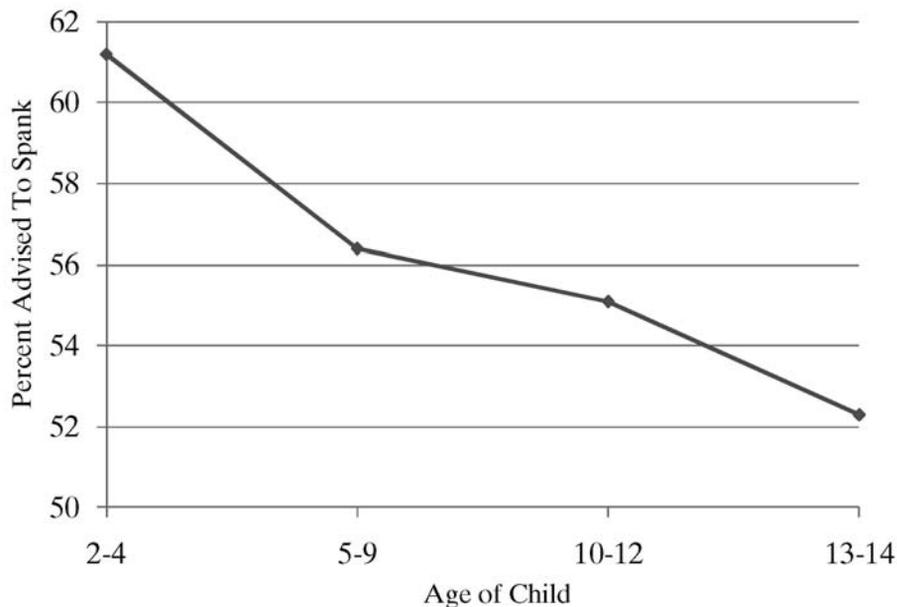
54. Zeev Winstok & Murray A. Straus, *Neighborhood Violence and Use of Corporal Punishment, Verbal Aggression, and Physical Abuse by a National Sample of Parents in Israel* (Jan. 23, 2008) (unpublished manuscript) (on file with Law and Contemporary Problems).

55. Barbara A. Carson, *Parents Who Don't Spank: Deviation in the Legitimation of Physical Force* (1986) (unpublished Ph.D. dissertation, University of New Hampshire) (on file with the University of New Hampshire).

turn, felt it necessary to defend this deviation from the cultural norm by various methods. For example, a frequent strategy was to tell relatives and friends that the child was so well behaved that spanking was not necessary.

A study of a sample of 998 mothers in Minnesota with children aged two to fourteen found that most of the mothers had received advice to spank in the previous six months.⁵⁶ Among mothers of two- and three-year-old children, almost two-thirds had been advised to spank, illustrated below in Figure 7.

Figure 7. Almost Two Thirds Of Mothers Of Toddlers Had Been Advised To Spank In The Previous Six Months, And Over Half Of Mothers Of Early Teen Agers



This advice was strongly associated with actual CP. Each increase of one point on the scale to measure advice to use CP was associated with a 12% increase in the percentage of mothers who spanked. Another analysis found that 56% of spankers and 32% of nonspankers said their parents or relatives recommended spanking. The 56% of the spankers received support for

56. See generally Walsh, *supra* note 40.

conforming to American norms and the 32% of nonspankers who were advised to spank were recipients of criticism in the form of advice to spank.

2. Number of Children

Certain characteristics of the family are important proximal causes of CP. One is identified by the *Mother Goose* nursery rhyme: “There was an old woman who lived in a shoe. She had so many children she didn’t know what to do. She gave them some broth without any bread and whipped them all soundly and put them to bed.” One study tested the relation of the number of children to the use of CP in a large, nationally representative sample of U.S. families.⁵⁷ It controlled for other possible causes of CP, such as the ages of the parent and the child and low socioeconomic status. Despite controlling for these variables, the study found that the more children in each family, the greater the use of CP: the percentage using CP went from 55% for one-child families to 66% for two children, 69% for three children, and 79% for four or more children. Similar results were obtained for families in Sri Lanka.⁵⁸

The link between the number of children in a family and CP can occur through a number of processes. With more children, parents have less time and energy to monitor, explain, and reason with each child and may therefore use CP as a quick form of behavioral control. In addition, larger families place more economic and emotional burdens on parents. Parents must devote more time to child-rearing activities but may have less time to do that if they must spend more time working outside the home to meet the economic demands associated with having more children. These commitments also detract from the time parents have to spend in pleasurable, stress-relieving activities and may serve to diminish the size and quality of personal support networks as well as the quality of the marital relationship itself. Increased stress, combined with reduced social support from the marital relationship, might result in punitive discipline strategies such as CP.

3. Age of Parent

Another family characteristic that can be considered a proximal cause of parents hitting children is the age of the parent. Studies of four nationally representative samples of parents found that the younger the parent, the greater the percent who used CP.⁵⁹ If one views CP as an act of violence, even though it is socially legitimate violence, the higher rate of CP among young

57. Murray A. Straus & Nancy Asdigian, *There Was an Old Woman Who Lived in a Shoe: Number of Children and Corporal Punishment*, in *THE PRIMORDIAL VIOLENCE: CORPORAL PUNISHMENT IN THE UNITED STATES*, *supra* note 6.

58. Piyanjali Thamesha de Zoysa, *Parental Use of Physical Force Towards School Children in the Columbo District: Prevalence, Psychosocial Correlates and Psychological Consequences* (December 2005) (unpublished Ph.D thesis, University of Colombo) (on file with Law and Contemporary Problems).

59. Randal D. Day, Gary W. Peterson & Coleen McCracken, *Predicting Spanking of Younger and Older Children by Mothers and Fathers*, 60 *J. MARRIAGE & FAMILY* 79, 87 (1998); Giles-Sims et al., *supra* note 4, at 173; Straus & Stewart, *supra* note 6, at 61.

parents is consistent with countless studies in many nations showing that violent crime peaks in the late teens and early twenties and declines rapidly thereafter.⁶⁰ There are many possible mechanisms that might explain the greater violence of young people—for example, greater impulsiveness. The societal-level relationship occurs because the average age of mothers at the time of the first-born child varies from nation to nation. Thus, according to this theory, CP should be more prevalent in nations with an early average age of the mother at the first birth. The increase in age at time of the first birth to CP suggests one of the explanations for the decline in use of CP.

4. Violence Between Parents

Physical violence between parents is an important proximal cause because the parents of at least a third of American children have been physically violent to each other at some point in the child's life.⁶¹ A study of all children born in the Christchurch, New Zealand, urban region during mid-1977 (N = 1,265) found a similar correlation between their having experienced parental violence and their own later use, as parents, of CP.⁶² The New Zealand parents were classified into four levels of violence. Among those children who reported no violence between their parents, 6.3%, as parents themselves, regularly used CP. For the low, middle, and high parental-violence groups, the percent regularly using CP were 10.9%, 30.3%, and 52.1%, respectively.

5. Corporal Punishment Is Related to the Same Proximal Causes as Physical Abuse

A study using a checklist of risk factors associated with physical *abuse* (as opposed to non-physically injurious CP) investigated whether the risk factors in that checklist are also risk factors for CP. Most of the variables in the checklist can be thought of as proximal causes of CP; for example, low family income, worries about the family's economic future, excessive drinking, and part-time-or unemployment.⁶³ The relation of scores on this checklist to CP was examined for a nationally representative sample of U.S. children.⁶⁴ For parents with scores of zero to two, only 14% had used CP during the year of the study. As the checklist scores increased, so did the percentage of parents who had used CP, reaching 52% for parents with scores of nine or more. Additional evidence that CP and physical abuse share much of the same etiology comes from studies of

60. See generally LEE ELLIS & ANTHONY WALSH, *CRIMINOLOGY: A GLOBAL PERSPECTIVE* (2000).

61. See generally MURRAY A. STRAUS, RICHARD J. GELLES & SUZANNE K. STEINMETZ, *BEHIND CLOSED DOORS: VIOLENCE IN THE AMERICAN FAMILY* (reissued ed. 2006).

62. David M. Fergusson & L. John Horwood, *Exposure to Interparental Violence in Childhood and Psychosocial Adjustment in Young Adulthood*, 22 *CHILD ABUSE & NEGLECT* 339, 345 (1998).

63. See STRAUS ET AL., *supra* note 61.

64. See generally Murray A. Straus, *Ordinary Violence, Child Abuse, and Wife Beating: What Do They Have in Common?*, in *PHYSICAL VIOLENCE IN AMERICAN FAMILIES: RISK FACTORS AND ADAPTATIONS TO VIOLENCE IN 8,145 FAMILIES* 403 (Murray A. Straus & Richard J. Gelles eds., 1990).

substantiated cases of physical abuse, which have found that between two-thirds and 85% of the cases, the abusive incident began as ordinary CP, then escalated.⁶⁵

IV

THE DECLINE IN CORPORAL PUNISHMENT

In the western world, CP by parents and others with responsibility for children has probably decreased since early modern times.⁶⁶ The major decrease has been in the most extreme types of violence—what is now called “physical abuse.” As for the less-extreme violence by caretakers that goes under euphemisms such as spanking and smacking, the extremely high rates described in this article indicate that the pace has been glacial. However, the early twenty-first century has seen a sharp increase in the pace of change, as shown for example, in the following section.

A. Legal Change

The worldwide trend away from CP is most clearly reflected in the twenty-four nations that had legally banned CP by 2009.⁶⁷ Both the European Union and the United Nations have called on all member nations to prohibit CP by parents. The UN committee responsible for implementing the Convention on the Rights of the Child held that “[a]ddressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it, in the family, schools and other settings, is not only an obligation of [member nations] under the Convention. It is also a key strategy for reducing and preventing all forms of violence in societies.”⁶⁸

B. Changes in Attitudes and Behavior

Regardless of whether there is a legal prohibition and regardless of the implementation effort, both attitudes favoring CP and actual use of CP have been declining. The earlier section on cultural norms documented decreases in the percentage of the U.S., New Zealand, and Swedish populations who believe

65. See generally D. G. GIL, *VIOLENCE AGAINST CHILDREN: PHYSICAL CHILD ABUSE IN THE UNITED STATES* (1970); ALFRED KADUSHIN & JUDITH A. MARTIN, *CHILD ABUSE: AN INTERACTIONAL EVENT* (1981); Miriam Gonzalez et al., *What Predicts Injury from Physical Punishment?: A Test of the Typologies of Violence Hypothesis*, 32 *CHILD ABUSE & NEGLECT* 752 (2008); Nico M. Trocmé et al., *Major Findings from the Canadian Incidence Study of Reported Child Abuse and Neglect*, 27 *CHILD ABUSE & NEGLECT* 1427 (2003).

66. See generally Samuel X. Raddbill, *Children in a World of Violence: A History of Child Abuse*, in *THE BATTERED CHILD* 3 (Ray E. Helfer & Ruth S. Kempe eds., 4th ed. 1987); PETER NEWELL, *CHILDREN ARE PEOPLE TOO: THE CASE AGAINST PHYSICAL PUNISHMENT* (1989).

67. *Discipline and the Law*, THE CENTER FOR EFFECTIVE DISCIPLINE, <http://www.stophitting.com/index.php?page=laws-main> (last visited Sept. 6, 2010).

68. U.N. Comm. on the Rights of the Child, *General Comment No. 8: The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment*, ¶ 3, U.N. Doc. CRC/C/GC/8 (Mar. 2, 2007).

that CP is necessary.⁶⁹ In Sweden, the percentage supporting CP declined from 53% in 1965 to 42% in 1968, 35% in 1971, 26% in 1981, and 11% in 1994.⁷⁰ In the United States, a comparison of 1975, 1985, and 1995 national surveys shows a large decrease in use of CP for older children, but almost none for toddlers.⁷¹ CP decreased by 31% for children aged nine to twelve from 1975 to 1995, and 56% for children aged thirteen to seventeen. For children aged five to eight, though, the decrease was 12%, and for those under age five only 2%. Thus, over 90% of U.S. parents continue to hit toddlers. One explanation for the almost unchanged rate of hitting toddlers is based on the combination of two phenomena.⁷² The first is that toddlers (that is ages two to five) have poor control of their own behavior, even when they know what should or should not be done. The second is that almost no parent advice books, magazine articles, or newspaper articles explicitly advise parents to *never* hit a child. In recent years most advice on discipline says or implies that spanking is to be avoided, and suggests alternative modes of correcting misbehavior. The alternatives are important, but not sufficient. This is because parents also need to know that, whatever the mode of correcting a toddler, there is an extremely high probability of the child repeating the misbehavior, even when the child is aware of the correct behavior. This is mainly because toddlers do not have good control of their behavior. One study, for example, found that among two-year-old children, half repeated the misbehavior within two hours of correction and almost all within the same day.⁷³ This high recidivism rate applied regardless of whether the correction was in the form of explaining, diverting, or spanking the child. The difficulty is not that nothing works with two year old children; the difficulty is that it takes many, many repetitions of the correction. Consequently, when parents of two year old children use the alternatives suggested and find that the child repeats the misbehavior, they mistakenly believe that it is not working. They then act on the basis of the culturally established (but false) belief that spanking works when other methods have failed. The truth is that every method works (including spanking) when repeated consistently and often. However, spanking has harmful side effects that non-violent methods of discipline do not have.⁷⁴

69. See *supra* part III.B.2.

70. See generally Joan E. Durrant, Linda Rose-Krasnor & Anders G. Broberg, *Physical Punishment and Maternal Beliefs in Sweden and Canada*, 34 J. COMP. FAM. STUD. 586 (2003) [hereinafter Durrant et al.].

71. Straus & Stewart, *supra* note 6, at 59–60. See also generally STRAUS, *supra* note 2; STRAUS ET AL., *supra* note 61.

72. See generally Murray A. Straus, *Children Should Never, Ever, Be Spanked No Matter What the Circumstances*, in CURRENT CONTROVERSIES ON FAMILY VIOLENCE 137 (Donileen R. Loseke, Richard J. Gelles & Mary M. Cavanaugh eds., 2005).

73. Robert E. Larzelere & Jack A. Merenda, *The Effectiveness of Parental Discipline for Toddler Misbehaviour at Different Levels of Child Distress*, 43 FAM. REL. 480 (1994).

74. See Gershoff, *supra* note 1.

In Sweden in the 1950s, 94% of parents spanked, a third did it at least daily, and—one can infer—almost all did it at least once a week.⁷⁵ By 1995 the percentage of parents spanking had decreased to 33%. A 2003 study found no further decrease in the percentage who had ever spanked, but found a tremendous reduction in the percentage who spanked once a week or more—to only 4%.⁷⁶ In Germany, surveys of nationally representative samples of children aged twelve to eighteen in 1992 and 2002 found large decreases, especially in the most severe forms of CP:⁷⁷

1. Light slap in the face decreased from 81% to 69%.
2. Severe slap in the face decreased from 44% to 14%.
3. Beaten on the bottom with a stick decreased 41% to 5%.
4. Beaten to the point of bruising decreased from 31% to 3%.

Decreases of that magnitude are not likely to have occurred in response to a law passed in 2000, especially because the law was not known to 70% to 75% of the population.⁷⁸ These remarkable decreases probably reflect changes in German culture and social organization as much or more as the law banning CP. Nevertheless, one analysis of the trends in Sweden led the researcher to conclude that an unambiguous legal prohibition accelerates the change.⁷⁹

The United States is a nation with a strong cultural commitment to the right and necessity of parents to use CP. It took several years of bitter debate before the American Academy of Pediatrics was able to adopt a policy advising parents to not spank.⁸⁰ Although this was a strong anti-CP statement, the compromise wording excludes hitting a child with an open hand on the buttocks from the type of punishments that should never be used. A similar compromise was necessary to gain organizational endorsement of a report and policy statement advising against CP.⁸¹ Still, in the context of American society, it is remarkable that within a few months of publication, the report has been adopted by the American Medical Association and over thirty other organizations.⁸² Thus, in the United States, as in many other nations, a movement away from CP is taking place.

75. See *supra* Table 1.

76. See generally Durrant et al., *supra* note 70.

77. Bussmann, *supra* note 38, at 296.

78. See generally *id.*

79. See generally Joan E. Durrant, *Legal Reform and Attitudes Toward Physical Punishment in Sweden*, 11 INT'L J. OF CHILD. RTS. 147 (2003).

80. American Academy of Pediatrics, *Guidance for Effective Discipline*, 101 PEDIATRICS 723, 726 (1998).

81. ELIZABETH T. GERSHOFF, CENTER FOR EFFECTIVE DISCIPLINE, REPORT ON PHYSICAL PUNISHMENT IN THE UNITED STATES: WHAT RESEARCH TELLS US ABOUT ITS EFFECTS ON CHILDREN 26 (2008).

82. Interview with Elizabeth T. Gershoff (June 2009).

Nations around the world are now starting to experience what can be called a “moral passage” in respect to CP.⁸³ The pace of change has been slow, and there is resistance, but spanking and other legal forms of CP are more and more being redefined as a social problem—that is, as a behavior culturally defined as undesirable and to be changed if possible. Perhaps the most important indication of a moral passage in respect to CP is the prohibition of CP by twenty-four nations. Parents’ hitting children is being conceptualized as a violation of the human rights of children.⁸⁴ This new moral standard evaluates as reprehensible behavior that was previously expected. It is a change of historic importance. It raises the question of why it is occurring at this point in history. What are the underlying social forces?

V

WHAT EXPLAINS THE DECREASE IN CORPORAL PUNISHMENT?

Of the many changes in society that have probably contributed to the “moral passage” from acceptance of CP to its broad disapproval, four are particularly notable.

A. Demographic Changes

Changes in the demographic structure of society have probably contributed importantly to the decrease in approval of and use of CP. First, the percentage of parents with a college degree has increased from five percent to about thirty percent, and studies show that educated parents use less CP.⁸⁵ Second, in many nations, women are marrying at older ages and delaying a first child in order to enhance occupational advancement.⁸⁶ This reduces the prevalence of CP because older parents spank less.⁸⁷ Third, the number of children per couple has been decreasing.⁸⁸ For the reasons pointed out earlier, having fewer children is associated with less use of CP.⁸⁹

83. See generally JOSEPH R. GUSFIELD, *SYMBOLIC CRUSADE: STATUS POLITICS AND THE AMERICAN TEMPERANCE MOVEMENT* (1963); JOSEPH R. GUSFIELD, *THE CULTURE OF PUBLIC PROBLEMS: DRINKING-DRIVING AND THE SYMBOLIC ORDER* (1981).

84. See generally U.N. Comm. on the Rights of the Child, *supra* note 68; Joan E. Durrant, *Physical Punishment, Culture, and Rights: Current Issues for Professionals*, 29 J. DEV. & BEHAV. PEDIATRICS 55, 60 (2008).

85. See generally KERBY T. ALVY, *BLACK PARENTING: STRATEGIES FOR TRAINING* (1987); Ateah & Durrant, *supra* note 45, at 176; Kirby Deater-Deckard et al., *Physical Discipline Among African American and European American Mothers: Links to Children's Externalizing Behaviors*, 32 DEVELOPMENTAL PSYCHOL. 1065 (1996); Giles-Sims et al., *supra* note 4, at 173.

86. *Growing Numbers, Diverse Needs*, 23 POPULATION REP., ser. J, no. 41, 1–2 (Population Information Program, Center for Communication Programs, Johns Hopkins School of Public Health 1995), available at <http://info.k4health.org/pr/j41/j41chap1.shtml#top>.

87. See Giles-Sims et al., *supra* note 4, at 173; Straus & Stewart, *supra* note 6, at 61; see generally Day et al., *supra* note 59; Murray A. Straus & Denise A. Donnelly, *Corporal Punishment of Adolescents by American Parents*, 24 YOUTH & SOC'Y 419 (1993).

88. Straus & Donnelly, *supra* note 87.

89. *Supra* part III.C.2.

B. Expansion of Human Rights

Human rights and humanitarian values have expanded over centuries to include groups who had been previously denied equal rights and protection. Slavery has been abolished for well over a century. The remnants of slavery in the form of official racial segregation ended a generation ago in the United States and more recently in South Africa. Women achieved the right to vote almost everywhere, and the remaining legal discriminations are just about gone in industrial nations. Full equality in nonlegal matters between men and women is still to be achieved,⁹⁰ but the movement is clearly in that direction.

The Convention on the Rights of the Child⁹¹ is one indication that children are next on the agenda, including the right of a child to be free from the risk of physical assault by parents.⁹² The basis of this change is not primarily evidence that CP harms children, just as the abolition of slavery was not fundamentally based on evidence that slavery hurt the economy. It is a change in moral principles or beliefs. More and more people believe it is immoral to hit children, just as they came to believe that it is immoral to own slaves or to “physically chastise an errant wife”—the common law right of husbands until late in the nineteenth century.⁹³

C. Transition to a Post-Industrial Economy

As the economic basis of human life evolved from hunting and gathering to agriculture and then to industry, and to a “post-industrial” economy, new social institutions developed and existing institutions adapted to the changed means of subsistence.⁹⁴ Levinson’s analysis of Human Relations Area Files data, and his review of other studies, shows that CP tends to be least prevalent in hunting–gathering societies and most prevalent in agricultural and industrial societies.⁹⁵ Post-industrial societies, however, are ushering in a new era of low CP.

Why is CP least prevalent in hunting–gathering and post-industrial societies? On the surface, these two types of society have little in common. However, cross-cultural research on CP has identified an important common element.⁹⁶ The pattern of living in hunting–gathering societies is best served by raising children who can be self-directed and autonomous, and who can cooperate as equals. In hunting–gathering societies, adults are frequently away

90. See generally Doris Weichselbaumer & Rudolf Winter-Ebmer, *The Effects of Competition and Equal Treatment Laws on Gender Wage Differentials*, 22 *ECON. POL.* 237 (2007).

91. United Nations Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 1577 U.N.T.S. 3; see also Richard Reading et al., *Promotion of Children’s Rights and Prevention of Child Maltreatment*, 373 *LANCET* 332, 332 (2009).

92. See United Nations Convention on the Rights of the Child, *supra* note 91, at art. 19.

93. Robert Calvert, *Criminal and Civil Liability in Husband–Wife Assaults*, in *VIOLENCE IN THE FAMILY* 88–90 (Suzanne K. Steinmetz & Murray A. Straus eds., 1974).

94. See generally MARVIN HARRIS, *CANNIBALS AND KINGS: THE ORIGINS OF CULTURES* (1977).

95. See generally LEVINSON, *supra* note 31.

96. See generally Godfrey J. Ellis & Larry R. Petersen, *Socialization Values and Parental Control Techniques: A Cross-Cultural Analysis of Child Rearing*, 23 *J. COMP. FAM. STUD.* 39 (1992).

by themselves foraging or hunting in small mutually cooperating groups. Survival depends on being autonomous and self-directed as well as being able to be a team player. Hierarchical groups and arrangements are minimal. Adults tend to have individual responsibility for the activities on which life depends. Agricultural and traditional industrial societies need members who can be obedient parts of hierarchical groups, such as the patriarchal farm family or the patriarchal church, or the assembly-line factory. It is no accident that the only adult institutions in western society that continued CP into the early twentieth century were the most hierarchical of all institutions—armies, navies, and penal institutions.⁹⁷ Families have also remained very hierarchical, and many parents have continued to value unquestioning obedience, both for its own sake and as “preparation for life.”⁹⁸ In a society or sector of society in which unquestioning obedience is an important part of the life into which their children must fit, CP can help equip children to take their place in that society.⁹⁹ Evidence from cross-cultural studies using the Human Relations Area Files shows that “the more conformity is valued relative to self-reliance, the more physical punishment is used in child rearing.”¹⁰⁰

The principle that societies evolve methods of bringing up children that will equip children to fulfill the roles they are likely to play as adults, when applied to post-industrial societies, focuses on the relatively few jobs in a post-industrial society requiring “a strong back and a weak mind.”¹⁰¹ Instead, the predominant occupations are in services and management and in professions and sciences. In 1950 thirty percent of Americans worked in manufacturing compared to less than fifteen percent in 2008.¹⁰² In 2008 there were more choreographers (16,340) than metal-casters (14,880).¹⁰³ These trends mean that an increasing percentage of the population needs to have interpersonal skills to cooperate, explain, and negotiate, and to be self-directed, autonomous, and creative. These are not traits that are fostered by CP. When parents require unquestioning obedience and hit rather than explain to enforce it, they model an economic and social system that is disappearing.

Despite these changes, industry and society remain hierarchical. At each level, though, team management and decisions are more and more prevalent. This change is occurring in all spheres of society, including manual-work occupations. More manual-work jobs require flexibility and decision-making; in a growing number of work settings, workers are organized into teams with

97. See generally HAROLD D. LANGLEY, *SOCIAL REFORM IN THE U.S. NAVY, 1798–1862* (1967); DAVID GARLAND, *PUNISHMENT AND MODERN SOCIETY: A STUDY IN SOCIAL THEORY* (1990).

98. See generally M. L. KOHN, *CLASS AND CONFORMITY: A STUDY IN VALUES WITH A REASSESSMENT* (1977).

99. See MELVIN L. KOHN, *CLASS AND CONFORMITY: A STUDY IN VALUES* 64–65 (2d ed. 1977).

100. Ellis & Petersen, *supra* note 96, at 47.

101. See generally *id.*

102. Christopher Caldwell, *Old-School Economics: The Transition to a New Economy is Over. Do Our Candidates Know It?*, N.Y. TIMES MAG., Jan. 27, 2008, at 11.

103. *Id.*

decision responsibility. The team-decision pattern was first documented for oil-refinery workers,¹⁰⁴ and has spread to many other major industries such as automobile manufacturing.¹⁰⁵ The assembly line is being transformed by teams of workers who have mutual responsibility for production and for quality control of a product or major component of a product.¹⁰⁶ These characteristics of a post-industrial occupational system may be part of the explanation for a moral passage that could eventually change the world from one in which almost all children are socialized by CP to one in which this occurs for only a small minority of the population.

D. Legitimizing Role of Social Science

The exponential growth in the quantity and quality of social-science research on what it takes to bring up healthy nondelinquent children is a third development that makes a contribution to the emerging moral passage. At present, this research is a minor contribution because it is indirect. The results of research showing that child misbehavior is minimized by parental warmth, setting standards and being an example of those standards, monitoring, and consistency in enforcement of standards have been widely disseminated. By implication, these nonviolent modes of correction will be sufficient to deal with the child's misbehavior and CP will not be necessary. Consequently, newspaper and magazine articles and books for parents based on that research say indirectly that CP is not necessary. Yet social scientists and authors of books for parents avoid saying that a child should never be spanked. This was illustrated by child-development textbooks on display at the 2009 meeting of the Society for Research in Child Development. An examination of ten books with 2009 or 2010 copyrights on display in the first five booths in the exhibit hall showed that these large textbooks contained an average of only 1.5 pages on CP. For a four- or five-hundred page book, this means that less than half of one percent of the pages inform students about a socialization practice that is experienced by almost all American children. Moreover, none concluded that children should never be spanked.

This does not mean that research plays no role. It means that the primary practical application of the research on CP is "conceptual" and "legitimizing."¹⁰⁷ The conceptual use provides intellectual justification in the form of a theory. Social-science theories make the new moral beliefs scientifically rational in a world where science is valued. Social-science research can provide evidence that the new moral beliefs result in social and psychological conditions that are

104. See generally ROBERT BLAUNER, *ALIENATION AND FREEDOM: THE FACTORY WORKER AND HIS INDUSTRY* (1964).

105. *Id.*

106. *Id.*

107. See Donald C. Pelz, *Some Expanded Perspectives on Use of Social Science in Public Policy*, in *MAJOR SOCIAL ISSUES: A MULTIDISCIPLINARY VIEW* 346, 349 (J. Milton Yinger & Stephen J. Cutler eds., 1978); see generally Carol H. Weiss & Michael J. Bucuvalas, *Truth Tests and Utility Tests: Decision-Makers' Frames of Reference for Social Science Research*, 45 *AM. SOC. REV.* 302 (1980).

superior to what prevailed under the old moral order. In the present case, it is that children will be better behaved and better off if parents do not use CP. The research aids what has been called “claims making”¹⁰⁸ by moral entrepreneurs such as the Center for Effective Discipline,¹⁰⁹ which seek to focus public attention and resources on ending CP.

The results of social-science research on CP come at a point in history when the post-industrial economic order is changing the very nature of society in ways that may be as fundamental as the changes accompanying the agricultural revolution thousands of years ago, and the industrial revolution 200 years ago. The social roles and psychological perspectives inherent in a post-industrial society are inconsistent with bringing up children through CP. The combination of the change in worldview created by this massive change in society and the new information about the serious harm resulting from hitting children, are probably accelerating the transition to a new moral order. This moral passage will transform CP of children from something that loving parents are expected to do “when necessary” to an unmitigated evil, just as moral and legal changes at the end of the nineteenth century transformed a husband’s hitting his wife from something that was “sometimes necessary” and a private family matter shielded from legal intervention to an unmitigated evil.¹¹⁰ In short, major changes in the nature of society such as those just described are making the trend away from CP almost inexorable, even though there will always be a small proportion of parents who continue to hit children.

VI

CONCLUSIONS

Research in many nations indicates that CP by parents is more prevalent and more severe than is generally realized. In the United States CP is:

1. almost universal—ninety-four percent of toddlers are spanked;
2. chronic—three or more times a week for toddlers;
3. often severe—twenty-eight percent used a paddle, belt, et cetera; and
4. of long duration—thirteen years for a third of U.S. children, seventeen years for fourteen percent of U.S. children.

The theoretical model presented in this article suggests that a major portion of the cause of this pattern is to be found in the characteristics of society, such as cultural norms that permit or require CP when a child misbehaves. Although this model identifies a large number of hypothesized societal causes, they are probably only a small part of the characteristics of society that influence

108. See generally Naomi Aronson, *Science as a Claims-Making Activity: Implications for Social Problems Research*, in *STUDIES IN THE SOCIOLOGY OF SOCIAL PROBLEMS 1* (Joseph W. Schneider & John I. Kitsuse eds., 1984); Joel Best, *Rhetoric in Claims-Making: Constructing the Missing Children Problem*, 34 *SOC. PROBS.* 101, 101–02 (1987); Joseph R. Gusfield, *Constructing the Ownership of Social Problems: Fun and Profit in the Welfare State*, 34 *SOC. PROBS.* 431 (1989).

109. CENTER FOR EFFECTIVE DISCIPLINE (Sept. 6, 2010), <http://www.stophitting.com>.

110. Calvert, *supra* note 93, at 88–90.

whether parents hit children. This is because societies, like families, are social systems.¹¹¹ A system is an entity in which each component tends to influence the other components. The social-system perspective presented in this article provides an explanation for the decrease in CP that is occurring in many nations, and also an explanation for why ending CP is so difficult. It is because CP is a thread in the fabric of society and each thread of that fabric tends to support the other threads. Nevertheless, as the characteristics of society change to diminish the distal, mezzo, and proximate social causes of CP, in combination with legal changes and parent education, the age-old practice of parents hitting children as a means of correcting misbehavior is likely to become a rare occurrence. The experience of Sweden is an example. As recently as the 1950s, almost all Swedish children were spanked and Swedish parents used CP almost every day.¹¹² By 2001 only fourteen percent of eleven- to thirteen year-old Swedish children reported they had ever experienced CP,¹¹³ compared to ninety percent of American children.¹¹⁴ Four Swedish studies found that no-hitting did not mean no-discipline.¹¹⁵ It has meant correcting misbehavior by nonviolent methods. In 1979 many in Sweden feared that Swedish children would be running wild. The opposite has happened. Behavior problems and crime by Swedish youth have *decreased* since then.¹¹⁶

Legal prohibition of CP was an important step in ending parents' hitting of children in Sweden. It is also important to recognize that this was accomplished by informing and helping parents, not by criminal penalties. If future legal changes in other nations focus on ending CP by punishing parents who use CP rather than by informing and helping parents to correct children's misbehavior nonviolently, it would be inconsistent with the societal changes and the humanitarian goals underlying the movement away from CP.

111. See generally BUCKLEY, *supra* note 47; Straus, *supra* note 48.

112. See generally Hakan Stattin et al., *Corporal Punishment in Everyday Life: An Intergenerational Perspective*, in COERCION AND PUNISHMENT IN LONG-TERM PERSPECTIVES 315 (Joan McCord ed., 1995); Joan E. Durrant & Staffan Janson, *Law Reform, Corporal Punishment and Child Abuse: The Case of Sweden*, 12 INT'L REV. OF VICTIMOLOGY 139 (2005).

113. See generally Durrant & Janson, *supra* note 112.

114. See generally Straus & Paschall, *supra* note 10.

115. See generally Durrant & Janson, *supra* note 112.

116. See generally Durrant, *Trends in Youth Crime*, *supra* note 37, at 447; Durrant, *Sweden's Corporal Punishment*, *supra* note 37.