



Welsh Government minister
Julie Morgan

Criminalising loving parents

The Welsh Government has introduced a Bill to make it a criminal offence for a parent to smack their own child. Those who support this change misrepresent a controlled smack by a loving parent as equivalent to child abuse.

The Bill threatens to ruin the lives of many ordinary families. If smacking is made illegal police would be under a duty to investigate allegations. This process alone would be deeply distressing for families and could see children removed from

homes and parents' jobs being affected.

Whether you support smacking or not, it is surely wrong to criminalise parents for it. More than three-quarters of the Welsh public are opposed to smacking being made a criminal offence.

The legal defence of 'reasonable chastisement' only protects parents who use a mild smack.

Any unreasonable chastisement is already unlawful. Removing this defence would be an unprecedented interference in family life by the state.



OVERWHELMING POLICE AND SOCIAL WORKERS

Criminalising smacking will distract social workers and police with trivial cases.

It would be a tragedy if major cases of abuse are missed because vital staff members are occupied investigating innocent parents. Those genuinely in need will suffer while resources are wasted on cases where there are no real problems. Social workers will be even busier than they are already, and vulnerable children will not get the help they need.

Everyone accepts that the state must

intervene to protect children who are in danger of abuse. But if that is to be done effectively, the limited resources available need to be focused on identifying and helping those at risk, not investigating loving parents.

Those seeking a smacking ban deliberately conflate smacking with hitting. Smacking is unjustly characterised as something that parents only do when lashing out in anger. This completely misrepresents what smacking is and

how loving parents discipline their children.

Good parents do not smack in anger. They may use many different means to

teach their children responsible behaviour. But many parents make the judgement that, occasionally, a mild smack could be appropriate.



Prosecuting parents

CPS: A SMACK WILL BE ON THE 'SPECTRUM OF OFFENDING'

The Chief Crown Prosecutor for Wales has backed the Bill to remove the reasonable chastisement defence despite admitting it could damage the life prospects of parents who are convicted of smacking.

Barry Hughes said a parent smacking a child on the legs would become part of a "spectrum of offending". He claimed, in contrast

to figures from the police and others, that, "The number of offences is likely to be very small".

But the chief prosecutor went on to describe a parent who smacks as "the offender" and admitted: "let's say they end up being convicted of assaulting their child – in circumstances that would not have happened in England – then



they would have a criminal conviction they wouldn't have in England, and that, inevitably, has an impact upon their life prospects".

Under questioning

from AMs, Hughes also admitted that malicious reporting by warring parents could increase if mild parental smacking becomes a criminal offence.¹

GOVT MINISTER: 'PARENTS COULD BE PROSECUTED'

Deputy Minister for Health and Social Services Julie



Morgan AM has also admitted that parents who smack their children could be prosecuted if reasonable chastisement is made illegal in Wales.

Announcing the Government's smacking Bill in March 2019, Mrs Morgan said, "by removing the defence,

some parents who physically punish their children and are subsequently reported to the police or social services may be charged with a criminal offence in circumstances where that would not happen now because there is a defence they can call on".²

ESTIMATES: THOUSANDS OF PARENTS TO BE INVESTIGATED

Police figures suggest hundreds of parents in Wales could face criminal charges for smacking their children.

According to Police Liaison Unit (PLU) data, 1,370 new smacking crimes could be recorded in the first five years if the reasonable chastisement defence is removed.³

Government minister Julie Morgan AM suggested that figure could double – equivalent to 2,740 people in the first five years, all of whom could be investigated for smacking and sent to a Government re-education scheme.⁴

She also implied that thousands could have

their names recorded on the National Law Enforcement Database, potentially 'blacklisting' them from working with young people and vulnerable adults.⁵

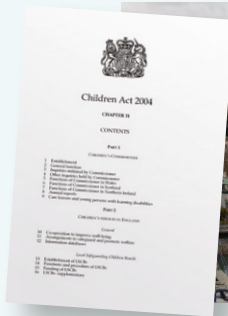


The current law works

THE LEGAL POSITION ON SMACKING

Under existing law, parents in England and Wales are allowed to 'reasonably chastise' their children. This is set out in Section 58 of the Children Act 2004.

Opponents of smacking argue that the law should be changed to protect children from abuse. Yet child abuse is already illegal.



Smacking is not child abuse. It is wrong and utterly misleading to confuse incidents of child abuse with smacking. Those who defend loving smacking as a means of discipline are opposed to all cruelty towards children.

The existence of the 'reasonable chastisement' defence will never prevent a conviction in a case of genuine abuse. The legal defence cannot be used where a parent smacks their child so that it leaves anything more than a transitory reddening of the skin.

An example of the law in action took place in Torbay last year, where a stepdad was successfully prosecuted for smacking his four-year-old daughter too hard. He had left a handprint on her bottom, and the judge ruled that he had acted unlawfully. The stepdad admitted going too far, and was ordered to undertake unpaid community work, 20 days of rehabilitation, and had to pay prosecution costs.⁶ Although this was an English case, the law in Wales is the same.

THE LAW RECOGNISES CHILDREN AND ADULTS ARE DIFFERENT

Those calling for a ban fail to take into account the unique relationship between parents and their children. Children are not adults. Parents do all kinds of things to care for, train and protect their children that they would never do with an adult. If a parent confiscates their child's phone or sends them to their room, it is not treated as theft

or false imprisonment. Nobody claims the child is being treated 'unequally'. It is wrong to apply this

argument to smacking. Criminalising smacking would represent a fundamental shift in the legal relationship

between parents and children, undermining the ability of parents to guard and guide their children.



International evidence

In 1979, Sweden became the first country to ban smacking. Those in favour of a ban often cite it as a role model. They argue smacking teaches children that violence is acceptable. If this is true, we would expect the figures to show reduced violence among children after Sweden's ban.

However, figures show the opposite. Since the smacking ban, child-on-child violence increased by 1,791% between 1984 and 2010. One study comments:

"trends in Swedish criminal assaults against minors suggest that the way the

first spanking ban has been implemented in that country may have increased criminal assaults in that country, in contrast to its intended effect of decreasing violence".⁷

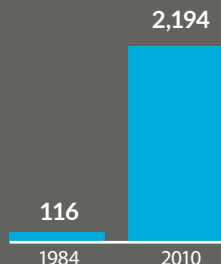
Psychiatrist David Eberhard published a critique of Sweden's approach. He argued that the emphasis on a permissive approach, which started with the smacking ban, has left parents unable to correct their children in any way. Eberhard identified several serious consequences for Swedish society, such as breakdown of discipline in schools, plummeting grades and a rise in anxiety disorders among teens,



CHILD-ON-CHILD VIOLENCE

Number of criminal assaults by under-15s on 7-14 year olds in Sweden.

 **1,791%**
increase



including suicide attempts.⁸

In New Zealand, a top law firm has concluded that a smacking ban has criminalised ordinary parents. The analysis, from public law specialists Chen Palmer, criticised confusing legislation and a failure to issue clear guidance to police. It also said statements made by

politicians in 2007 were simply wrong in law. Claims that amending section 59 of the Crimes Act would not criminalise good parents were found to be "inconsistent with the legal effect of section 59 and the application of that section in practice".

The report sets out a series of problems with the ban, citing comments made in Appeal Court and High Court rulings. In one such case, a former UK national, referred to as "DC", admitted gently smacking his two sons and was convicted. The Court of Appeal later quashed his conviction but DC lost custody of and contact with his sons.⁹

Many activists claim that Wales is an "outlier" by allowing parental smacking. However, the fact is that there are 139 nations worldwide which allow parents to lovingly discipline their own children, including Italy, the US, Canada and Australia.



What Wales says

CONSULTATIONS CONFIRM STRONG OPPOSITION TO BAN



In July 2019, the Assembly's Children, Young People and Education Committee published the results of an online call for evidence it held between April and May.

Official analysis of the responses revealed massive public opposition to the Government's smacking Bill. Out of the 650 responses, six in ten were against a smacking ban. The opposition rose to almost seven in ten amongst individuals.¹⁰ This is just the latest demonstration of the strength of opposition to the plans.

In August 2018, the Government published a summary of 1,741 responses to its four-month consultation. Although the consultation failed to ask the key question of whether smacking



Llywodraeth Cymru
Welsh Government

should be a criminal offence, almost half of respondents thought the ban would not protect children's rights at all.

When given the opportunity to raise issues not covered by the questions, the strength of opposition was even clearer. Two-thirds of these responses opposed removing the reasonable chastisement defence.

One respondent wrote: "Your proposal will have the effect of treating ordinary loving parents like real abusers and cause unnecessary anxiety for their children". Respondents were also concerned about "law abiding and caring parents" who use "reasonable" methods being stigmatised.¹¹

POLLS SHOW MAJORITY AGAINST CRIMINALISING PARENTS

Also in August 2018, the Welsh Government's #TalkParenting survey of 1,298 people (69% of whom said they were parents) found that 64% think smacking shouldn't be banned, while only 30%

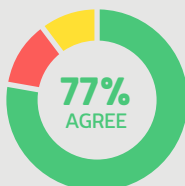
think it should.¹²

Previously, polling by ComRes found that 76% of Welsh adults were opposed to a smacking ban.

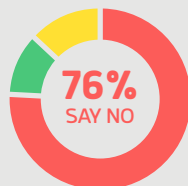


Be Reasonable Wales poll

I would be concerned that a smacking ban might flood police and social workers with trivial cases which mean they struggle to stop serious abusers.



Should parental smacking of children be a criminal offence?



Join the campaign at: www.bereasonable.wales

The online poll was conducted by ComRes which interviewed 1,019 Welsh adults between 13 and 25 January 2017. Data were weighted to be demographically representative.

WELSH GOVT FAILS TO MAKE THE CASE FOR A BAN

Many serious concerns were raised about the Government's smacking Bill when the Assembly's Children's Committee considered it during the first half of 2019.

Disappointingly, the Committee still chose to endorse the Bill.

But in a letter to the Committee, the UK Ministry of Justice explicitly warned that a smacking law could be weaponised by spouses in divorce proceedings.¹³

The Committee also

heard the Welsh Government admit that it is "very difficult to gauge the impact" of a ban on public services – including overstretched social services.¹⁴

As for academic research, the Welsh Government made the astonishing admission in its own consultation document that "there is unlikely to be any research evidence which specifically shows the effects of a light and infrequent smack as being harmful to children".¹⁵



GOD'S DESIGN

The God-ordained pattern of authority is seen throughout Scripture. We read in Romans 13 and 1 Peter 2 that God has established governments to restrain evil and commend what is good. The state should intervene in cases of abuse but it cannot simply usurp the family.

The biblical design is for parents to have authority over their children. Children are to honour their parents (Exodus 20:12). It is

primarily the father and mother's responsibility to raise and therefore discipline their child.

Christians recognise that firm discipline is an inevitable part of showing genuine love to a child. God himself disciplines his children in ways that are painful in the short term for their long-term benefit. This is the pattern for parental discipline (Hebrews 12:7-11).

Not every parent will choose to smack and different children will benefit from different forms of discipline, but parents should have the freedom to decide.

The exercise of parental authority is also subject to other exhortations and commands in Scripture. Parents should not exasperate their children (Ephesians 6:4), they should be self-controlled (2 Peter 1:6), known for their gentleness (Philippians 4:5), slow to anger (James 1:19) and careful not to sin when angry (Ephesians 4:26).



References available at christian.org.uk/smackingwales-ref2



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