Consultation on the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

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About you

Individual

1  The Bill’s general principles

1.1  Do you support the principles of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

— No

1.2  Please outline your reasons for your answer to question 1.1

(we would be grateful if you could keep your answer to around 1000 words)

I believe that it is an incorrect assumption to classify smacking as ‘unreasonable chastisement’ as this puts it into the category of being child abuse which it clearly is not. Smacking is a tool that is rightly defined as ‘reasonable chastisement’ that can be used by caring and loving parents to demonstrate to their children the difference between right and wrong. It should not be applied in anger and must be proportionate, therefore should not leave anything more than a very temporary reddening.

Smacking should is not considered unreasonable but if this bill is passed it will define smacking as unreasonable and will be considered as child abuse. There are already adequate laws that protect children from child abuse in the Children Act 2004. Removing the ‘reasonable chastisement’ Section 58 will inevitably lead to criminalising loving parents who chose to correctly discipline their children with a smack when appropriately needed.

Parents are not considered to be criminals if they send their children to their rooms (false imprisonment) nor are they accused of theft if they confiscate items that are harmful to their children. The same principal should not be applied to the timely use of smacking in my view. Parents are adults and as such are not equal to their children but are in a position to apply discipline in a manner that is appropriate for them and their children.
1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

(we would be grateful if you could keep your answer to around 1000 words)

No, the current Children Act 2004 Section 58 already provides sufficient legislation to provide protection for children against ‘unreasonable chastisement’, including child abuse, so children are more than adequately covered under the current 2004 Act. Cases, such as a Torbay case where a step father was successfully prosecuted for going too far using a smack that left a handprint on his 4 year old daughter, show that the Act is working well. This man was also suitably punished and financially penalised for his actions. The current law in Wales is the same as this current Act and is equally as effective and sufficiently adequate.

Parents need to be given the option to choose how they discipline their children and whether smacking in their appropriate as a form of discipline for their children. Smacking tends to be used by parents as a warning to young children who are not mature enough to understand potential dangers, such as running into the road or touching a hot object. Criminalising this valuable disciplinary tool could jeopardise the safety of young children who tend to act very quickly and could seriously injure themselves. Changing the current clause will definitely put parents in the very difficult position of not being able to discipline their children without the risk of being prosecuted and criminalised. This could have a devastating knock-on effect with parents potentially losing their children into care, losing their jobs and not being able to provide for their families.

Under the proposed changes of this bill, the police service and social workers will be distracted from dealing with very serious cases of child abuse and will waste their very valuable time dealing with trivial cases involving justifiable parental discipline. This will lead to their services being overwhelmed when they are already suffering from cutbacks and limited resources. Truly vulnerable children involved in major abuse cases will potentially go on longer and may even be missed with the increased demands on the time and resources of these valuable services.

2 The Bill’s implementation

2.1 Do you have any comments about any potential barriers to implementing the Bill?

If no, go to question 3.1

(we would be grateful if you could keep your answer to around 1000 words)

Yes, there are potential barriers to this bill’s implementation.

A very small number of countries have already implemented a similar bill to this one, including Sweden and New Zealand. Sweden introduced this measure of banning smacking in 1979 and evidence from 1984 and 2010 shows that there has been a 1,791% increase in the incidence of child acts of violence by under 15 year olds on other children aged between 7-14
year olds. Psychiatrists in Sweden are also arguing that the permissive approach that encouraged the smacking ban has left parents in the position of not being able to discipline or correct their children. Unfortunately they are saying that this has a very negative knock on effect on the discipline in schools resulting in decreases in exam results, increases in anxiety and higher incidences of suicide. New Zealand legal institutions are finding that parents are being criminalised for applying ordinary discipline and guidance for police is confusing and ambiguous as there are no proper guidelines.

Other evidence from official surveys such as the Be Reasonable campaign shows that there is not a demand for this legislation in Wales.

76% of people in Wales have said NO to making parental smacking of children a criminal offence.

77% of people in Wales AGREE that they are concerned that the smacking ban could flood police and social workers with trivial cases so struggling to stop serious abusers.

68% of people in Wales AGREE that it is sometimes necessary to smack a naughty child.

85% of people in Wales said YES they were smacked by parents or guardians as a form of discipline. Even Carwen Jones, who proposed the smacking ban when he was First Minister, has admitted in a public meeting in Llanelli that he had smacked his own children in the past.

2.2 Do you think the Bill takes account of these potential barriers?

(we would be grateful if you could keep your answer to around 1000 words)

No, the bill does not take into account potential barriers to the Bill’s implementation

3 Unintended consequences

3.1 Do you think there are any unintended consequences arising from the Bill? If no, go to question 4.1

(we would be grateful if you could keep your answer to around 1000 words)

No, the bill does not take into account potential consequences to the Bill’s implementation

Government Ministers are very concerned about the unforeseen consequences of the Bill implementation, such as the current Deputy Minister for Health and Social Services, Julie Morgan AM and former Children’s Minister, Leighton Andrew. Mrs Morgan is worried that parents who use justifiable and considered smacking will not have a legal defence to call up if the Bill is implemented and ‘reasonable chastisement’ is removed. In addition, in 2015, Mr Andrew was anxious that ‘parents who forcibly lift a misbehaving child could be guilty of battery’ when previous legislation was discussed.
The University Health Board is also perturbed that their staff and patients will be open to prosecution for disciplining their own children with a smack if the smacking ban is implemented. Staff have a statutory duty to report child welfare and protection concerns to the Local Authority as under the Bill’s proposals smacking would become one of those concerns. This could result in staff being charged with abuse and suspended causing additional issues within an already struggling NHS service.

4 Financial implications

4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)? If no, go to question 5.1

(we would be grateful if you could keep your answer to around 1000 words)

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5 Other considerations

5.1 Do you have any other points you wish to raise about this Bill?

(we would be grateful if you could keep your answer to around 1000 words)

The Bible is regarded by many as a sound basis for moral and ethical judgements and there is clear guidance in this resource and in other religious texts, on the principles of discipline and authority. The Bible advocates that parents have self control (2 Peter 1 v 6), be slow to anger (James 1 v 19) and that they should be careful not to sin when they are angry (Ephesians 4 v 36). Yet at the same time Proverbs 13 v 24 says ‘Whoever spares the rod hates their children, but the one who loves their children is careful to discipline them’ (NIV).

Child abuse is defined differently in Proverbs - it is saying that not using discipline (which can be applied by taking ‘time out’, reasoning and also be in the form of a rod or hand as a last resort in a measured manner and without causing undue harm) is a form of child abuse as the parent is neglecting to show true love to their children. The use of ‘rod’ in this context is referring to the disciplining of children to demonstrate right from wrong and to obey authority so that they will not be self-centred and selfish. Humankind at all levels do not naturally conform to authority and need to be encouraged to do so by the enforcing of discipline.

Parents are in a privileged position to discipline their children in an appropriate way from an early age so that they will turn into responsible adults within society. I reiterate that imposing this Bill to remove the defence of ‘reasonable chastisement’ for parents who discipline their children with a mild smack or enforced lift will have a detrimental effect on society as a whole and I am wholeheartedly against the implementation of this Bill.