



Disciplining your Children by Courtney N. Wowryk

In years gone by, it was taken for granted that parents and teachers could use physical force to discipline unruly children. In recent years however, societal beliefs regarding violence against both women and children have changed dramatically, leading to a reduction in the use of corporal punishment, and causing some to lobby for an outright ban on the use of force against children. Understandably, this shift in belief and practice has created some confusion regarding caregivers' rights to discipline children using force.

Legally, the "intentional application of force, directly (using your person) or indirectly (using an object), to another person without his or her consent" is considered assault, and is therefore illegal. Obviously, spanking or restraining an out of control child falls under this definition. However, a court may deem that the child consented to the application of force (i.e. the spanking or restraint) where the person applying the physical discipline is the child's

caregiver. Specifically, this exception applies to schoolteachers, parents, and persons standing in the place of a parent. In such circumstances, the use of force is considered a tool for the correction of bad behaviour. That said, the method of correction used on children or pupils cannot exceed what is reasonable in the circumstances. Where the application of force is considered "beyond the ordinary norm of parental conduct" a court will not deem a child's consent. In such circumstances the caregiver has moved into the realm of physical abuse and must face the legal consequences.

The ability of schoolteachers, parents and those standing in the place of parents, to use physical force to correct bad behaviour falls under the "Protection of Persons in Authority" defence. This defence however, is quite limited in its application. First, it only allows physical means of correction to be used against people who are capable of learning from the correction. As such, this form of correction

can only be used on children ranging from 2 to 12 years of age.

Whether a method of correction is considered reasonable will depend on a number of factors. These factors include: the child's behaviour that led to the correction; the child's age and character; the likely affect of the punishment on that particular child; the degree of gravity of the punishment; circumstances under which the punishment was inflicted; and the injuries sustained by the child (if any). Collectively, this defence is only available to parents or those standing in the place of parent, where "minor corrective force of a transitory and trifling nature" is applied. That is to say, the correction must be relatively quick and painless and done in a controlled manor, such as slapping a child's hand or holding a child tightly to control his or her behaviour. The use of objects (for example a wooden spoon), or blows or slaps to a child's head, as well as harmful, inhuman or degrading treatment are strictly forbidden.

The ability of school teachers to use this defence is even further restricted, as they cannot use corporal punishment as a means of correction. Rather, teachers are only permitted to use reasonable force to remove a child from a classroom, or to secure compliance with instructions. This ability may be further restricted by the policies of individual school divisions, which teachers should be familiar with.

To conclude, given the ongoing debate over the use of physical discipline on children, it is likely that the law will become increasingly restrictive. Furthermore, while the law currently allows for a limited use of physical force by caregivers, some Child and Family Service agencies consider any and all physical discipline unacceptable. As such, caregivers should be wary about the use of physical force as a means of correction, and should consider implementing other forms of discipline.