

SPARING THE ROD: REFLECTIONS ON THE ABOLITION OF CORPORAL PUNISHMENT, AND THE INCREASE IN VIOLENCE IN BRITISH CLASSROOMS

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Britain was the last state in Western Europe to give-up the practice of using corporal punishment in 1986, and behind other regions, such as Scandinavian countries, most of Australia, and South Africa in its reluctance to officially end this sanction. The impetus for change came from the necessity to reconcile British custom and practice with articles contained in the European Convention on Human Rights. A decade has now passed since the abolition of physical chastisement as a disciplinary measure in schools and teachers have been prohibited by their employers from using this sanction under legislation. Some critics look back lamenting the availability of the cane to inflict punishment, arguing instead that we have 'gone soft on kids'. This also comes at a time when violence in schools is said by the teaching unions to have increased substantially and there are cases of 'girls knifing girls' in the classroom. How much of this can be attributed to the abolition of corporal punishment in school? What evidence is there for linking abolition with an increase in violence in schools, and how does this impact on teacher and pupil safety? Drawing on personal research in the 1980's of the abolition of corporal punishment in British schools, and study of the current position of increasing gun and knife crime in society, this paper provides: an historical framework in which to consider the use of corporal punishment in British schools and elsewhere; a legal update as to the present arrangements for disciplinary sanctions and the use of 'reasonable restraint' to deal with unruly pupils; and an exploration of staff and pupil safety, set against the evidence and concern over violence in the classroom. Discussion concludes with consideration of how teachers can best respond to managing classrooms without violating children's rights and the adequacy of law in making clear this legal position for policy-makers and practitioners.

I INTRODUCTION

The abolition of corporal punishment in the United Kingdom (UK) was hailed as a victory for children's rights, and came at the end of a 20 year battle by parents, teachers and lobbyists in the 1980s. Invoking the *European Convention on Human Rights* (1949),¹ petitioners took their claims to domestic courts and to the European Court of Human Rights in Strasbourg² to ensure children were no longer subjected to 'humiliating treatment or punishment', and that parents' 'philosophical convictions' against physical chastisement were being respected, in keeping with legal Articles in the Convention. Britain was thus the last state in Western Europe to give-up the practice in 1986, and behind others, such as Scandinavian countries, most of Australia, and South Africa in its reluctance to officially end this sanction.³ This became law for all pupils in state maintained schools in 1986,⁴ and extended to all pupils regardless of their schooling by 1998.⁵

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But a decade has now passed since the abolition of physical chastisement as a disciplinary measure in schools and some critics look back lamenting the availability of the cane to inflict punishment, arguing instead that we have ‘gone soft on kids’. This also comes at a time when violence in schools is said by the teaching unions to have increased substantially and there are cases of ‘girls knifing girls’ in the classroom. How much of this can be attributed to the abolition of corporal punishment in school? What evidence is there for linking abolition with an increase in violence in schools, and how does this impact on teacher and pupil safety? Drawing on my research in the 1980s of the abolition of corporal punishment in British schools and my study of the current position, this paper provides:

- a) an historical perspective of the use of corporal punishment in the UK;
- b) the legal context and relevant legislation;
- c) the evidence available concerning violence in British schools; and
- d) contemporary debates concerning teacher and pupil safety.

Discussion concludes with consideration of the implications for teachers managing classrooms without violating children’s rights and the adequacy of law in making clear this legal position for school managers and practitioners.

II HISTORICAL PERSPECTIVE

The use of corporal punishment in British schools and elsewhere can be found in the origins of education and traditional practices. Physical chastisement has been a common feature in child-rearing,⁶ and carried over into schooling as teachers in both private and state-funded schools were expected to administer the sanction. This was part of tradition in the UK but most countries around the world have corporally chastised their children.⁷

The courts have accepted the principle of reasonable chastisement by a teacher acting ‘in loco parentis’ as a defence in cases of physical punishment (*R v Hopley*).⁸ This assumption was challenged vigorously at the European Court of Human Rights, as discussed later in the article. A tradition has evolved in which the teacher has sought approval under the umbrella of ‘in loco parentis’ in order to administer corporal punishment (*Williams v Eady*,⁹ *Fitzgerald v Northcote* and others¹⁰) and to use detention as a disciplinary sanction. This is not to infer there have been no limits placed on teachers. The courts in the UK have adjudicated on many cases involving discipline and from litigation accumulated over the past one hundred years a number of precepts have emerged. These are that the punishment be reasonable and given in good faith; that factors affecting the child should be taken into account; and that the sanction be consistent with school policy and such as the parent might expect if their child did wrong.¹¹ Writing in 1984, Adams argued that in order to change the situation:

... the power of a teacher generally in relation to corporal punishment will have to be removed by a legal ruling from the European Court, or an Act of Parliament or by powers vested in a local authority ...¹²

Therein lay the essence of the problem which faced the teaching profession in the UK, for it was precisely this removal or erosion of teachers’ right to administer corporal punishment which altered their status. That the European Court of Human Rights in Strasbourg was in a position to affect such a change was the result of Britain’s membership of the Council of Europe and its signing of the European Convention on Human Rights, discussed next.

III LEGAL CONTEXT

Working collectively, the member states of the Council of Europe seek to improve the standard of human rights within their territories and the recognition of the right to individual petition. As such British parents in the 1980s used Strasbourg successfully as a forum to adjudicate the use of corporal punishment in British schools, claiming their human rights were being breached. They invoked two particular Articles of the *European Convention*:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment (Article 3, 1949)¹³

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their religious and philosophical convictions (Article 2 of the First Protocol, 1957)¹⁴

Despite continual defence by the Conservative Party Government of the day, Britain lost the major ‘corporal punishment cases’ in Strasbourg.¹⁵ This led to Britain’s need to reconcile with the obligations concerning the European Convention and legislative amendment took place in the form of the *Education No 2 Act* (1986),¹⁶ forbidding the use of corporal punishment in maintained schools and for children in private schools on assisted placement schemes. This was later extended in the *School Standards and Framework Act* (1998)¹⁷ to include all children regardless of their school setting, be it private or in a church, mosque or synagogue. Also, the *European Convention* has now been incorporated into British law under the *Human Rights Act* (1998),¹⁸ and individuals no longer need to petition to Strasbourg if they feel their human rights have been breached. As to the present arrangements for disciplinary sanctions, a variety of alternative, non-physical sanctions are being implemented. Where necessary, the use of ‘reasonable restraint’ to deal with unruly pupils, is contemplated under *The Use of Force to Control Pupils Education Act* (1996),¹⁹ and continues to be an area of controversy as we discuss later.

The focus has now shifted to outlawing the physical chastisement of children in the home. Children Unbeatable, an alliance of 350 groups argues that hitting a child should be made illegal.²⁰ The 144 year old defence of ‘reasonable chastisement’, discussed above, is being challenged. Supporters claim that evidence from countries where smacking has been banned, notably Scandinavia, showed no large increase in parents being persecuted for disobeying the law, suggestion a level of general consensus.²¹ The on-going campaign in the UK against hitting children has been fuelled by the tragic death of Victorian Climbié who died at the hands of her carers.²² The State has attempted to compel all government agencies to be more proactive in safeguarding the wellbeing of children, particularly those known by the local government to be at risk. This has now formed part of the 2006 ‘Every Child Matters’ policy agenda placing an emphasis on inter-agency co-operation to ensure children are nurtured in such a way as to thrive physically, emotionally, educationally and economically.²³

Ironically, as the government tightens up the use of physical chastisement in the home, there has been a call for a change in the law to give teachers the right ‘to discipline and restrain’.²⁴ The use of force to restrain is contemplated if there is the potential for injury to people or property. This aims to replace the common law principle of ‘in loco parentis’, which as discussed earlier, has traditionally given teachers the same authority over pupils as their parents.

Teaching unions have supported this move, spearheaded by the National Union of Teachers’ (NUT) charter for behaviour which calls for new laws explicitly setting out ‘teachers’ right to restrain pupils’.²⁵

The power of teachers would extend further, as part of the demand for teachers legal authority over pupils to be brought up to date. This follows the recommendations of Sir Alan Steer's 2005 committee on pupil behaviour:

- New legislation making explicit teachers right to discipline and restrain pupils using reasonable force;
- Schools to be given the right to apply for parenting orders;
- Local authorities to provide full-time education for excluded children from the 6th day of any exclusion, fixed term or permanent;
- From 2008, all secondary schools must belong to a local partnership sharing 'hard-to-place' pupils;
- All new schools to have space for pupil services such as learning support units
- Head teachers decisions not to be over ruled if pupils offence and school compliance with disciplinary process acceptable;
- Schools to hold mandatory reintegration interviews for any pupil excluded for more than 5 days; and
- Government should extend schools right to search pupils for weapons to drugs and property.²⁶

This Committee's work culminated in a document entitled 'Learning Behaviour — the Report of the Practitioner's Group on School Behaviour and Discipline',²⁷ and was followed by *The Education and Inspections Act* (2006).²⁸ Within the context of school discipline, this legislation makes explicit the 'power of members of staff to use force' but a clear distinction is made between the concept of corporal punishment and that of physical restraint. Section 93 of this legislation states:

- (1) A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely—
 - (a) committing any offence,
 - (b) causing personal injury to, or damage to the property of, any person (including the pupil himself [/herself]), or
 - (c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.²⁹

Significantly, this section *does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment* within the meaning of section 548 of the *Education Act* (1996).³⁰ Reasonable force by way of corporal punishment, is also not available as a defence against offences such as assault in the criminal courts, due to provocation or self-defence. The General Teaching Council for England makes clear in its Code of Conduct and Practice for Registered Teachers (2002) that teachers may be found to be guilty of unacceptable professional conduct if they fail 'to comply with relevant statutory provisions which support the well being and development of pupils'.³¹

Elements of this recent legislation were recommended over a decade ago in the Elton Report (1989) on pupil behaviour.³² Overall, the calls for change would remove the 'in loco parentis' law, and instead provide rights for teachers based on their position as a teacher, and that in matters relating to the school, the authority of the teacher could override that of the parent.

Punishments would still have to be reasonable and proportionate, in keeping with legal principles discussed earlier. Increased teacher authority would not only extend to matters of behaviour but to the confiscation of personal items, such as mobile phones brought into school.³³

In implementing policy, schools are obliged to ensure they understand where physical restraint ends and unreasonable force begins. Legally the distinction is very clear: corporal punishment is the application of force intended to cause pain or discomfort as a punishment and/or to modify behaviour. Conversely, physical restraint is the use of force but not for the purpose of causing pain, though this may happen, or to impose a disciplinary sanction, but to control or manage a pupil to avoid injury to the child, other members of the school community, or to avert damage to property.³⁴ Also of importance to this discussion is the added provisor in the *Education and Inspections Act* (2006), that ‘the powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section’.³⁵

Physical restraint of pupils should be regarded as part of overall behaviour management strategies and guidance should emphasise this point. ‘Guidance’ to the legislation laid down by the 1996 Act was provided under Circular 10/98 covering such issues as school policy, restraint and complaints procedure, provided at a regional level through Local Authorities.³⁶ For example, the *Derbyshire County Council Guidelines on Physical Intervention in Schools*³⁷ provides 32 pages of clarification and advice for practitioners relating to restraint, in conjunction with relevant Child Protection legislation.³⁸ The guidance indicates criteria for use which reflect current legislation noted above:

Staff who are authorised to by the Headteacher to have control or charge of children or young people are allowed to use such force as is reasonable ... to prevent a child or young person from doing or continuing to do, any of the following: committing a criminal offence; injuring themselves or others; causing damage to property; or engaging in any behaviour prejudicial to maintaining good order and discipline at the school whether that behaviour occurs in a classroom, other school premises, or elsewhere whilst engaged in school activities.³⁹

Although providing details on possible circumstances for physical intervention, and the monitoring and record keeping of incidents requiring restraint, the guidelines states:

there is no legal definition of ‘reasonable force’. It will always depend on the circumstances of the situation and may also depend on the age, understanding and sex of the child or young person.⁴⁰

This leaves what may be a confusing and vague picture for practitioners, but what is clearly countenanced in the legislation and relevant school policy is that physical restraint is not intended as a punishment to cause pain, and should be such as a parent or carer would consider reasonable, given the situation and the circumstances pertaining to the child.

In my first appointment as a practitioner in the classroom, the Head teacher advised staff, ‘never touch a child in anger or affection’, and from my observations, this view is still held by some members of senior management in British schools. In reality however, there is physical contact between teachers and pupils. For example, small children may want a reassuring and caring hug in times of distress; an older child may require a calming gesture by a teacher with the placing of a hand on the arm or shoulder; and firmer ‘holding’ may be required for working with pupils in challenging circumstances.⁴¹ Each school is obliged to provide guidance on appropriate and inappropriate physical interaction between teachers and pupils, and generally restraint

techniques are designed to be gentle and to restrict movement. Training for teachers provided through local authorities appears to be on an ad-hoc basis depending on the nature of the school and its situation. Male teachers, however, in both primary and secondary level are potentially in a more difficult situation in this matter, and the General Teaching Council advises teachers to take seriously their legal and professional responsibilities when using restraint and to record the incident.⁴²

Teacher disciplining of pupils continues to be a controversial area and whilst the law catches up on the needs of the 21st century classroom and the demands of teachers and their unions for more adequate means to deal with disruptive pupils,⁴³ violence in the classroom is said to be a regular occurrence, and attributed to the removal of corporal punishment as a disciplinary sanction.

IV EVIDENCE OF VIOLENCE IN THE CLASSROOM

Violence in school is not a new phenomenon: as discussed above it has historically featured as a characteristic of the British education system. What is new is that rather than teacher on pupil, the violence is now pupil on teacher and pupil on pupil.

No fatality is ever acceptable, but in terms of fatalities the figures are fortunately very low. The sad roll call is as follows:

- Philip Lawrence, deputy head teacher, stabbed to death by a 16 year old boy in 1995, outside a London school when he went to the assistance of one of his pupils;⁴⁴
- Luke Walsingly, a Lincolnshire school boy stabbed by a fellow pupil;⁴⁵ and
- Kiyon Prince, 15 year old school boy stabbed outside his London school in 2006.⁴⁶

Reported acts of violence in the classroom have been regularly documented by the teaching unions since the abolition of corporal punishment. For example, the National Union of Teachers has documented ‘the significant interest in numbers of reported injuries to teachers due to assaults by pupils’.⁴⁷ Similarly, the National Association of Schoolmasters Union of Women Teachers report that ‘one teacher faces a verbal or physical assault every 7 minutes’.⁴⁸ In some cases classroom violence has led to serious injuries being sustained by teachers, and significant numbers have been forced to leave the profession prematurely. This has been attributed in part, to the abolition of corporal punishment in schools and a general lack of discipline and sense of safety in schools.

Whilst the number of fatalities at school due to violence is low, the possession and use of knives appears to be an increasing phenomenon. At the turn of the last century, knife crime in school was not recorded as a cause of concern, by 2005-6 the situation changed. The following headlines in 2006 reflect media reports of violence in British schools:

- ‘Boy, 14, knifed in stomach by rivals from other school’;⁴⁹
- ‘Girl is stabbed in eye with scissors by school bullies’;⁵⁰ and
- ‘Supervision order for girl in razor attack at school’.⁵¹

Even if we accept the propensity for some newspapers to sensationalise isolated occurrences, there would appear to be an increase in violent-related incidents in and around schools. Statistically, there were 57 convictions in 2005 for carrying a dangerous weapon. With 7 and a half million pupils, that figure would suggest there is not an epidemic or trend,⁵² but that does not take away from the painful and indeed dangerous experience of schooling for some pupils. The problem

of ‘bullying’ in the classroom continues to be a very real problem.⁵³ Sadly, a child is said to be bullied every 7 seconds, and 14 pupils committed suicide in 2005.⁵⁴ The situation is monitored by a number of bodies, for example, the Department for Education and Skills,⁵⁵ the organisation ‘Kidscape’,⁵⁶ and by an online agency for anti-bullying.⁵⁷

Clearly, no act of violence is acceptable in the classroom, but what is the true scale of the problem in the UK? And is the situation worse than elsewhere? In other words, what evidence is there to suggest that we should be concerned over violence in British classrooms?

If we look to the media there is ample discussion, usually following an individual act of violence in a school, or concerning pupils. Newspaper reports suggest that bullying has reached ‘epidemic proportions’ and that there are regular physical assaults in schools. For example, in the case of the 15-year-old Surrey schoolgirl cited above, she was stabbed five times with a pair of scissors by a gang of girls in the lunch queue at her school.⁵⁸ The girl’s father said this had been the third serious incidence of ‘bullying’ that his daughter had endured at the hands of fellow pupils. Three girls, two aged 14 and one 15, were subsequently arrested in connection with the incident.

Whilst attacks by pupils on pupils in school are still rare statistically, there has been an increasing trend for children to carry knives into school. These have been used as weapons; or in some case, instruments like pencils sharpeners have been used as knives. There has been little research on knives in schools, but recent surveys suggest it is on the increase. For example, a recent Home Office report suggested that 1 in 16 youngsters in London carry a knife into schools, but other sources suggest in places like London the figure is nearer 1 in 3. Generally, the reports also suggest that pupils carry knives into schools for the following reasons:

1. for a fashion accessory;
2. for personal protection; and
3. for a need to satisfy peer pressure.

Worryingly, the level of aggression and violence displayed by girls, often within a group of girl gangs, is on the increase in schools. This is an under-researched area, but constructions of gender and girls’ willingness to engage in acts of violence; particularly against each other is a noticeable phenomenon.⁵⁹ As a result of attacks on pupils, the Government has been urged to take seriously the level of violence in British classrooms and make appropriate response. Knife crime is also accompanied by gun crime, most notably among young male teenagers, on the street and in their home. So accessible are guns, that they are said to be exchanged for a bike.⁶⁰ This forms the basis of the final section in this paper.

V CONTEMPORARY DEBATES CONCERNING TEACHER AND PUPIL SAFETY

Current debates reveal a complex and confusing picture of protection *for* and *from* pupils. The Government has responded to violence in the classroom by announcing an ‘anti-bullying charter’, which would include new measures to force parents to take action to improve their children’s behaviour.⁶¹ This is seen as a signal for teachers to punish bullies who ‘bully’ other students, and to take complaints from persecuted children more seriously. The proposed charter means that yet again, teachers are expected to be vigilant and to effectively police pupils, rather than teach them. Equally of concern is the shifting definition of ‘bullying’. The Surrey schoolgirl stabbing incident, cited above, was in my opinion too serious to be labelled as ‘bullying.’ When an act reaches that level of aggression, it is beyond what constitutes bullying, and instead more

properly sits within the area of grievous bodily harm. How we look at a problem denotes how we respond.

Politically, all political parties have signalled their concern over violence at school. Sanctions to deal with violence in schools are also deemed to be inadequate by parents and teachers. As it stands, when children commit serious acts of violence in school, they should receive more than the standard two weeks' suspension.⁶² We would not tolerate it in the workplace if someone was sent away for two weeks, maybe having received some element of counselling and returned, why should it be tolerated in school? I would argue that when the level of violence is not bullying but common assault or grievous bodily harm, a return to school should not be automatic. Members of the school community need to be secure, and this is underpinned legally by the *Health and Safety Act* (1974),⁶³ which places a duty of care on school authorities. Yet one of the difficulties here is the classic case of 'rights in conflict', when under the ECHR and the *Human Rights Act* (1998),⁶⁴ cited above, 'every one has the right to education'. In educational matters, as with other aspects of life, the judiciary in Britain has been accused of interpreting human rights in such a way as not to breach the rights of the perpetrator, and the victim appears to be less protected. Properly scaled-down rights of perpetrators could be the way forward but thus far the trend has been felt to be in favour of the defendant, so much so that there have been calls for Britain to withdraw from the ECHR as detailed in the *Human Rights Act*.

In my book, *Sparing the Rod – Schools, Discipline and Children's Rights*, published in 1999, I suggested that too much is being asked of teachers and that parents and pupils should be taking more responsibility for their actions. When pupils act violently, they should lose their 'right to education' in that context, at that time. The concept is not so elastic as to be limitless. Eight years on, teachers' responsibilities continue to increase yet rather less is said of their rights, particularly with regard to dealing with unruly pupils. The government's new guidelines look to deal with this and give teachers more powers to restrain unruly children. Increasingly, teachers are being used to 'police' the school and this clearly needs to be challenged. Responsibility needs to be put very fairly on the shoulders of parents and pupils. There is a duty of care placed on teachers but there is only so much that a practitioner should be asked to do: dealing with pupils intent on malicious wounding should be outside their remit.

If, as evidence suggests, children and young people have become more unruly, we need to ask why. Part of the reason, I believe, is that schools are mirroring society. There is no conclusive evidence that the abolition of corporal punishment has led to an increase in violence in the classroom but political events on a global scale send out signals that confrontation not negotiation is a common strategy. Gang fights were a feature of the 1960/70s in the 'Mods and Rockers' era but violence and aggression today is different because it is reinforced by easy access to dangerous weapons. The availability and cost of firearms mean that gangs of young adolescents can 'club together' and buy a gun for £50 (approximately 100 Australian dollars),⁶⁵ and then share its usage among themselves according to a weekly timetable.⁶⁶ In 2007, three teenage boys were shot in two weeks, two of them 'executed in their own homes'⁶⁷ with weapons that were readily available on the streets of south London.⁶⁸ It is now believed that 'broken families and absent fathers have bred a generation of youngsters that glory in rap music and find comfort in guns'.⁶⁹

The role of the media, and especially the lyrics of popular music which is sexist, racist and glamorises violence and gun crime are also involved here. Guns are widely available and 'guns are respect'.⁷⁰ Rap music particularly has been criticised for reinforcing messages of violence, and allegedly the work of Eminem, 50 Percent, and P Diddy has contributed to the negative impact of music. Similarly, Snoop Dogg's song lyrics 'Nothing left to do, but buy some shells for my

Glock. Why? So I can rob every known dope spot' illustrates the criticism levelled at this section of the music industry.⁷¹

Parents too should accept responsibility for their children and in some case acknowledge their own inadequacies as parents. Support for parents, and parenting classes should form part of any package by the government to improve the situation. The Government is considering 'forcing parents of children at risk of slipping into gang culture to attend parenting classes'.⁷²

Similarly, what we ask of our children and what future lies ahead is also part of the bigger picture. Government dictates within the National Curriculum which still has a significant focus on the 'academic' element, with a narrow definition of what counts as achievement in school and a heavy concentration on attainment targets and league tables all help to create a climate in which the disaffected and/or low achiever is set up to fail. The absence of sufficient vocational courses, outlets or opportunities within the former apprenticeship schemes has meant that the classrooms of the last 20 years have encouraged disaffection and alienation. With a curriculum seen as 'girl friendly' but unsupportive of teaching and assessing boys appropriately, the underachievement of boys,⁷³ and especially 'Black boys',⁷⁴ is a key issue in Britain, as elsewhere. It has also been suggested that schools should provide more practical lessons. One teenager interviewed about the recent spate of shootings said:

They should be teaching them how to deal with life ... It's all very well telling me about the battle of Hastings and the Bayeux tapestry, but what am I gonna do when a bro' comes up to me and wants to punch me in the face when I'm, like, eight?⁷⁵

We should also be asking what must have happened in the perpetrator's life that they know how to engage in acts of violence, and be prepared to seriously wound others. The Home Office has reported that crimes involving the use of firearms in England and Wales have doubled since the late 1990s, and recent research found that the offenders, with few exceptions: had grown up in a disrupted family environment; had 'underachieved in, and had been excluded from mainstream education'; and had been exposed to an abundance of violent films and computer games.⁷⁶ Further,

what is clear is that in many of our poor-performing comprehensive schools, the teachers are barricaded in the staff rooms, scared of going out and laying the law down to the children.⁷⁷

'Laying the law down', again brings us back to the question of discipline in schools. Some members of society would argue that with the abolition of corporate punishment, we have spared the rod but spoiled the child. The older generations may bemoan the fact that the cane is no longer used in school, but its use was questionable on the grounds of effectiveness as well as ethics. School records show that it was the same pupils, mostly boys being caned time and time again, and rather than the last resort, in some cases it was the first.⁷⁸ The cane was also cheap and its replacement was not. There has been a growth in violence throughout the 1980s and 1990s, but there has also been a lack of educational opportunity for the less-academically motivated pupil since the introduction of the National Curriculum;⁷⁹ fewer opportunities to demonstrate success; and more inclination I believe to be disaffected by the education system in Britain.

As we saw at the outset of this discussion, the UK was the last country in Western Europe to use the cane. Some countries, such as Iceland, claim they never used corporal punishment in school.⁸⁰ Professional practice in other European countries suggest we need to consider alternative sanctions to corporal punishment, balancing teachers' responsibility to maintain good order in the

classroom and upholding children's rights at school. Alternative approaches are costly in terms of time, people and resources which some schools do not have available. As part of a recent European survey concerning the situation of children and young people, Britain performed badly, emerging bottom of the league table. In overall wellbeing, British children were considered to be the worst off in a list of 21 rich countries: life is reported to be lonely, scary, unhealthy and dangerous for a large minority of children in Britain.⁸¹ On the issue of personal satisfaction, British children claimed they felt unloved and unsupported and were way ahead in risk behaviours such as smoking, binge drinking, obesity, underage sex, and teenage pregnancy. Adolescents in Sweden were the most content with their country's provision for young people.⁸² This reflects the documented trend of countries in Scandinavian leading the way in children's rights.⁸³

In the UK the current situation demonstrates a mixed picture about the position and treatment of pupils. With concerns over increased violence in the classroom where dangerous weapons are taken into school, there is a situation where we need protection *from*, as well as protection *for* children, as stated earlier, and the debate on what alternatives are and should be available will be ongoing. If pupils are prepared to take weapons into the classroom and to use them they should be prepared to forfeit the right to education at that time and in that context. Until parents and children are truly accountable for violence in school, the Government's attempts to provide a safe environment for pupils and staff are misguided. Some parents are struggling to cope and need support. There is a social stigma for parents who cannot control their children, but parent classes may be the way forward to help support parents.

In the meantime, as we search for answers as to why we have increased and increasing violence in the classroom,⁸⁴ schools have to continually adjust to the situation. They are being encouraged to work with the police, as they have done concerning drugs. Within the Criminal Justice system it is an offence to carry a weapon, and this carries a four year sentence. Education and prevention are the messages that schools should be sending to challenge the idea that carrying knives into school is acceptable, 'cool' and/or harmless. Finally, in order to ensure a safe environment for pupils and staff, schools are also being encouraged to consider metal detectors as practised in some North American schools. Lessons from shooting rampages, such as that which occurred in Columbine High School,⁸⁵ and in Tuusula, Southern Finland in 2007⁸⁶ point to a genuine fear that schools need to strengthen their security systems. This is not only a sad indictment of the times, but this short-term, knee-jerk reaction will not remove all violent acts in the classroom for sometimes a seemingly harmless piece of equipment can be turned into a dangerous weapon as highlighted above, and wider social issues, highlighted above still need to be tackled.

VI CONCLUSION

There is no conclusive evidence to suggest that the abolition of corporal punishment has led to more violence in the classroom. However, violence in society has impacted on staff and pupil safety in the last two decades by way of shifting cultural mores caused by a number of factors. Any initiative which tries to deal with violence in the classroom needs to be well-conceived and not taken in isolation as a single strategy approach. What is telling about new guidelines on restraining pupils which are essentially about the safety of pupils, staff and property, is that there is little or no reference to the issue of children's rights, and the country's obligations under the European Convention on Human Rights. It was Britain's need to reconcile treaty obligations under Article 3 of the Convention which led to the abolition of corporal punishment. If today's call for increased authority for teachers over pupils means that 'force equals punishment' then European and national law will have been breached. Teachers cannot be empowered to act illegally and in a

way which contravenes these legal obligations, and therefore there is a continual tension between two sets of rights, those of teachers and those of pupils, and two sets of issues, protection *for* and *from* pupils. Tellingly, the role of parents in all this often remains silent, and far more should be expected of parents to enter this equation and assume responsibility for their children's behaviour and well-being at school and beyond.

Keywords: Education law; school management; impact of European Convention on Human Rights; student and teachers' rights; violence in the classroom and society; health and safety.

ENDNOTES

1. *The European Convention of Human Rights* (1949) <www.hri.org/docs/ECHR50.html> at 7 November 2007.
2. The European Court of Human Rights <[www.echr.coe/int/ECHR](http://www.echr.coe.int/ECHR)> at 7 November 2007.
3. M. Parker-Jenkins, *Sparing the Rod: Schools, Discipline and Children's Rights* (1999).
4. *Education (No.2) Act* (1986) c 61.
5. *School Standards and Framework Act* (1998) c 31.
6. M. Rosen, *The Penguin Book of Childhood* (1994).
7. P. Aries, *Centuries of Childhood* (1962); M. A. Straus, *Beating the Devil out of Them: Corporal Punishment in American Families* (1994); I. Gibson, *The English Vice: Beating, Sex and Shame in Victorian England and After* (1978); F.J. Ryan, 'From Rod to Reason: Historical Perspectives in the Public School, 1642-1994' (1994) *Winter Educational Horizons* 71.
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