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CORPORAL PUNISHMENT, SOCIAL NORMS AND NORM
CASCADES: EXAMINING CROSS-NATIONAL LAWS AND
TRENDS IN HOMES ACROSS THE GLOBE

MELISSA L. BREGER, LUCY SORENSEN, VICTOR ASAL &
CHARMAINE N. WILLIS*

ABSTRACT

For centuries, parents across the globe have utilized corporal punishment against children in the name of discipline. This Article is the first legal article to examine cross-national trends in child corporal punishment laws and to propose ideas for reducing its practice using the social norms approach. By examining 192 countries over a 46-year period, we shed light on emerging patterns. Additionally, by delving into countries' self-reports regarding their compliance with the United Nations Convention on the Rights of the Child (CRC) treaty, we observe other unique patterns globally.

Notably, during the course of our empirical research and data collection (2017–2019), significant moves to decrease the prevalence of child corporal punishment have emerged, such as the 2019 legislation in Japan seeking to outlaw the practice of child corporal punishment in Japanese homes, and the 2018 American Association for Pediatricians Statement asserting its first public admonishment of physical discipline against children in the home.

In our analysis, we utilize the country of Sweden—the first country worldwide to ban outright corporal punishment in the home—as our first case study to delve into the concept of norm cascades. We then showcase the country of Ethiopia—a country making great strides in changing societal norms about corporal punishment through public dissemination of literature and norm campaigns—as our second case study to examine concepts of re-norming. In conclusion, we demonstrate how social norms theories may be utilized to decrease the use and societal acceptance of child corporal punishment in the home.

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INTRODUCTION: CHILDREN'S RIGHTS UNDER THE LAW

- I. THE PSYCHOLOGICAL EFFECTS OF CORPORAL PUNISHMENT UPON CHILDREN AND THE LAWS GOVERNING DISCIPLINE IN THE HOME SETTING
 - A. *The Psychological Effects of Physical Discipline upon Children*
 - B. *Common Law, Statutes, & Laws*
 1. *Inter-country Variance*
 2. *Intra-country Variance*
 - C. *The Impact of the CRC*
 - II. THE INTERDISCIPLINARY RESEARCH TEAM AND THE DATA SET EXAMINING CORPORAL PUNISHMENT IN THE HOME IN EVERY COUNTRY
 - III. SOCIAL NORMS THEORY, RE-NORMING AND NORM CASCADES
 - A. *What Are Norms?*
 - B. *What Are Norm Cascades?*
 - C. *What Is Re-Norming?*
 - IV. WHAT TRENDS DID THE RESEARCH TEAM FIND AND HOW MIGHT THEY FIT INTO THESE THEORETICAL CONSTRUCTS?
 - A. *Case Study One: Sweden—Learning Lessons from the First Country to Ban Corporal Punishment of Children; Did It Start a Norm Cascade?*
 - B. *Case Study Two: Ethiopia—Learning Lessons from One Country Using Social Norm Awareness to Decrease Corporal Punishment in the Home*
 - C. *Other Re-Norming Lessons Learned from the CRC Self-Studies*
- CONCLUSION AND CALL FOR FURTHER RESEARCH

INTRODUCTION: CHILDREN'S RIGHTS UNDER THE LAW

For centuries, the law and its courts have shaped the parent-child relationship across the globe. Rights have ebbed and flowed across the so-called “triad” of rights—the child, the parents, and the government. Rights have fluctuated from laws that favor the government’s ability to regulate parenting—to laws that view parental rights as supreme—to laws that expressly validate children’s individual rights.

Fundamentally, parents’ rights to control and guide the upbringing of their children have enduring and deep roots in legal history. The legal system has routinely held parental rights in great deference, viewing the business of raising children as a “private” matter. In fact, early laws did not even reflect the concept of individual

children's rights.¹ Illustratively, older English laws and theories, such as "the chattel theory," viewed children as the actual physical property of their parents, specifically of their fathers.² Children were viewed through the same lens as livestock or physical property.³

With regard to the particular issue of parents punishing children, early laws gave parents almost free reign to discipline as they saw fit.⁴ Yet, the laws have slowly been shifting away from unfettered parental rights in the category of discipline.⁵ To date, a great variance exists cross-nationally about whether, when, and how parents can use physical force in the home in the name of discipline.⁶ For purposes of this Article, corporal punishment will be defined as the use of physical discipline by a parent or caretaker as a form of reprimanding or disciplining children in the home. This Article will not address when a parent crosses a line between discipline and actual child abuse. Child abuse, which can lead to serious physical injury or even death, is generally outlawed, even in countries where parents are allowed to hit children for discipline.⁷ These distinctions will be explained later in the Article.

In recent decades across the globe, children's individual rights have begun to strengthen.⁸ Indeed, in certain contexts, children's

1. Similar points have been made about early laws never having conceived of women's rights. NANCY K.D. LEMON, *DOMESTIC VIOLENCE LAWS* (6th ed. 2018).

2. See SIR WILLIAM BLACKSTONE, *COMMENTARIES ON THE LAWS OF ENGLAND IN FOUR BOOKS* 453 (George Sharswood ed., 1753) ("The legal power of a father (for a mother, as such, is entitled to no power, but only to reverence and respect), the power of a father, I say, over the persons of his children ceases at the age of twenty-one [. . .] Yet, till that age arrives, this empire of the father continues even after his death; for he may by his will appoint a guardian to his children."); Sarah Abramowicz, *English Child Custody Law, 1660–1839: The Origins of Judicial Intervention in Paternal Custody*, 99 COLUM. L. REV. 1344, 1356–57 (1999) (discussing how mothers had no enforceable rights to custody over the father or the father's appointed guardian); Dara E. Purvis, *The Origin of Parental Rights: Labor, Intent, and Fathers*, 41 FLA. ST. U. L. REV. 645, 651 (2014) (explaining how children were viewed as property, specifically of the father, in tenth century England).

3. See Purvis, *supra* note 2, at 651.

4. See, e.g., Rex Forehand & Britton McKinney, *Historical Overview of Child Discipline in the United States: Implications for Mental Health Clinicians and Researchers*, 2 J. CHILD & FAM. STUD. 221, 222 (1993). In the 1600s and 1700s, discipline in the United States was heavily influenced by religious values, particularly Puritan values. Such values included the use of strict discipline, such as children being whipped in public by their parents, or forced to make public confessions at meetings. Additionally, fathers had complete control over their children.

5. *Id.* at 223–24.

6. Lucy Sorensen et al., *Paddling the Pupils: The Legality (or Not) of Corporal Punishment in Schools 12–26* (Aug. 2, 2019) (unpublished manuscript) (available at <https://ssrn.com/abstract=3429160>).

7. See *Legal Ban on Violence Against Children*, U.N. SPECIAL REPRESENTATIVE OF THE SECY-GEN. ON VIOLENCE AGAINST CHILDREN, <https://violenceagainstchildren.un.org/content/legal-ban-violence-against-children> [<https://perma.cc/X6ET-N8DV>] (explaining the laws regarding violence against children in various countries).

8. *Id.*

rights have even been considered on par with parental rights, particularly in progressive child-centered countries in Scandinavia.⁹ Although there are still many nations that do not honor children as individuals possessing their own legal rights, increasingly, children's rights continue to be delineated and amplified in countries across the world.¹⁰

In the context of the United States, even though parental rights generally reigned supreme at the turn of the 20th century, the United States started to see a shift, slowly recognizing the child as an individual.¹¹ Children's rights evolved, arguably commencing in 1925 with the majority opinion in *Pierce v. Society of Sisters*,¹² then reiterated in *Prince v. Massachusetts*,¹³ and then expressed in Justice Douglas' dissent in *Wisconsin v. Yoder*.¹⁴ These seminal family law cases also added to a robust child-centered and growing jurisprudence in juvenile justice cases, such as the ground-breaking case of *In re Gault*.¹⁵

The clearest example of an international evolution of child rights in a law or treaty is evident in the United Nations Convention on the Rights of the Child (CRC).¹⁶ Every nation worldwide, but for the United States, has both signed and ratified this treaty; the United States has signed, but not yet ratified it.¹⁷ At least theoretically, demonstrated by the groundswell of support of the treaty (the most ratified international treaty to date), children's individual human rights have been steadily advancing.

This Article will explore the degree to which children's rights have developed in the specific context of a child's right not to be punished with physical force. The Article makes the normative argument that corporal punishment in the home is generally harmful, and that children, as a whole, would oppose corporal punishment, if given the option. This normative argument will be grounded throughout the Article from a trauma-informed and medical perspective. If we operate

9. *Id.*

10. *Id.*

11. *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925).

12. *Id.* ("The child is not the mere creature of the State . . .").

13. *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

14. *Wisconsin v. Yoder*, 406 U.S. 205, 243 (1972) (Douglas, J., dissenting) ("Crucial, however, are the views of the child whose parent is the subject of the suit.").

15. *In re Gault*, 387 U.S. 1, 57 (1967); *see also In re Winship*, 397 U.S. 358, 365 (1970) ("The same considerations that demand extreme caution in factfinding to protect the innocent adult apply as well to the innocent child."); *Matter of Newton v. McFarlane*, 174 A.D.3d 67 (N.Y. App. Div. 2019) (state custody case rather than juvenile justice case). The attorney for the child's advocacy was based in large part on the child's clearly expressed preference. "To rule otherwise would virtually relegate the child to the status of property, without rights separate and apart from those of the child's parents." The attorney for the child must advocate for the child's wishes and best interests precisely because the child has a vital interest and a voice that should be heard.

16. *See Convention on the Rights of the Child art. 11*, Nov. 20, 1989, 1577 U.N.T.S. 3.

17. *See id.*

from this assumption, we see children's rights developing in certain countries for a variety of reasons.¹⁸

As to the specific issue about whether parental use of physical force is an acceptable means of discipline, and where the line is drawn between what is legal and illegal, there is wide variance across the globe.¹⁹ In other words, what constitutes legally accepted corporal punishment and what counts as excessive corporal punishment (and arguably illegal discipline) varies widely across countries.²⁰ In some countries, physical force against a child by an adult is entirely outlawed.²¹ In other countries, corporal punishment is not only lawful, but culturally sanctioned.²² Similarly, the specific kind of punishment that is allowed by parents to be utilized toward their children and whether excessive corporal punishment by parents is penalized differs greatly, as will be discussed in detail below.

This Article will examine parental and child rights globally in the specific context of corporal punishment practices in the home environment. By analyzing cross-national data and country laws, as well as by examining nation's self-reported compliance with the CRC, the authors of this Article noticed trends, patterns and associations within and across nations. We explore corporal punishment against children by parents in the home within the larger theoretical framework of the social norms theory and associated concepts. Ultimately, we report upon global trends demonstrating decreased acceptance of corporal punishment in the home, and then suggest ideas for future research in decreasing the practice of corporal punishment in the home setting.

By examining trends and patterns across the globe, we sought to learn what makes a particular region more likely to ban corporal punishment in the home. What variances exist in terms of limiting or restricting corporal punishment? As we looked at the data showing

18. In our companion co-authored political science paper, the associations found in the data set included whether a country is common law or civil-law-based, religion, and the degree to which female citizens are educated or politically empowered. Sorensen et al., *supra* note 6, at 15–18.

19. *Id.*

20. *Id.*

21. Sweden will be addressed in the sections below. *Infra* Section IV.A. *See also, e.g.*, U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMM'R, UN SECRETARY-GENERAL'S STUDY ON VIOLENCE AGAINST CHILDREN INFORMATION FROM NORWAY ACCORDING TO QUESTIONNAIRE (2013), <https://www.ohchr.org/Documents/HRBodies/CRC/StudyViolenceChildren/Responses/Norway.pdf> [<http://perma.cc/TWH7-ZXWM>] ("Norway has a long legal history of rules prohibiting violence against children [prior to the CRC] . . . Physical and sexual violence against children is criminalized under the Penal Code of 22 May 1902 No 10. Chapter 19 relates to sexual felonies, chapter 20 regulates felonies concerning family relationships (abuse, battering, child marriage), and chapter 22 relates to felonies against another person's life, body or health.").

22. Enforcement of sanctions against parents who engage in excessive corporal punishment fluctuates as well, but will not be addressed in this Article.

us the laws across the globe, we noticed trends in countries situated near each other geographically, and we examined theories behind trends and norms. This is where we address the concept of norm cascades. We also noticed proactive steps that certain countries were taking to decrease the social acceptance of child corporal punishment in their societies and cultures, which then addresses the concept of re-norming. We ultimately theorize how these lessons can aid countries in decreasing corporal punishment.

This Article will proceed in six parts, counting the Introduction. Part I will support the argument of child corporal punishment as harmful to children by examining its psychological effects. It will then delve into the general laws governing child abuse, neglect and corporal punishment in various jurisdictions across the world, including the CRC. Part II will delve into the actual cross-national data that was gathered in 2017, primarily focusing upon the CRC self-reports from each country, as well as the process and procedure of analyzing the data. Part III will explain the theoretical concepts of a social norms approach, including norm cascades and re-norming. In Section IV.A, we utilize the country of Sweden as a case study to describe a way of thinking about countries' approaches toward child corporal punishment being impacted by the norms of similarly situated countries. Section IV.B will utilize the country of Ethiopia as a second case study about increasing social awareness and campaigns as a way to re-norm what it is socially acceptable behavior in the home. Section IV.C offers examples of several other countries using re-norming campaigns to change the practice of corporal punishment in the home. Finally, this Article concludes by summarizing our findings and how these trends can be instructive for future research. Specifically, we address whether these theoretical frameworks could be applied across the globe or even intra-country in an effort to decrease corporal punishment in the home. As such, this Article is the first legal article to examine child corporal punishment laws of 192 countries and to propose ideas for reducing its practice using the social norms approach.

I. THE PSYCHOLOGICAL EFFECTS OF CORPORAL PUNISHMENT UPON CHILDREN AND THE LAWS GOVERNING DISCIPLINE IN THE HOME SETTING

A. The Psychological Effects of Physical Discipline upon Children

Psychological and scientific data have repeatedly held that physical corporal punishment of children by parents or caretakers has deleterious effects upon children, both in childhood and later in teenage

and adult years.²³ Governments and organizations across the globe have therefore espoused views condemning physical discipline of children in the home.²⁴ During the writing of this Article, the American Pediatric Association has taken a stance against corporal punishment, which will be addressed in more detail below.²⁵

The psychological literature, particularly within the trauma body of work, has persistently and consistently signaled that violence begets more violence; violence in the home can lead to a child becoming a violent teenager or adult, or a victim of interpersonal violence later in life.²⁶ Frequent corporal punishment may contribute to increasing societal rates of violence; conversely, high rates of societal violence may in turn contribute to the acceptance of corporal punishment.²⁷ “[I]ndividuals are more likely to use violence in the future . . . if the society in which they live condones violence for [so-called] legitimate purposes, such as rearing children or punishing criminals.”²⁸

Psychological studies that specifically address parental physical discipline have shown that use of corporal punishment on children generally has resulted in negative physical, psychological, emotional, and mental effects on a child’s well-being.²⁹ Armed with the knowledge about the harmful side effects that corporal punishment can cause, many countries have increasingly banned the practice.³⁰ Yet, despite the psychological literature, many nations across the globe not only allow the practice of corporal punishment under their laws, but encourage it as a form of appropriate discipline for children.³¹

23. See, e.g., Elizabeth T. Gershoff et al., *The Strength of the Causal Evidence Against Physical Punishment of Children and its Implications for Parents, Psychologists, and Policymakers*, 73 AM. PSYCHOL. 626, 632–34 (2018).

24. *Id.*

25. See Robert D. Sege & Benjamin S. Siegel, *Effective Discipline to Raise Healthy Children*, 142 PEDIATRICS 1, 2 (2018).

26. Terra Pingley, *The Impact of Witnessing Domestic Violence on Children: A Systematic Review 11* (May 2017) (unpublished Master of Social Work Clinical Research Paper) (on file with St. Catherine University School of Social Work) (“Social learning theory explains that children exposed to parental violence are more likely to experience violence themselves, and go on to violent acts towards others.”); see Gregory Routt & Lily Anderson, *Adolescent Violence towards Parents*, 20 J. AGGRESSION, MALTREATMENT & TRAUMA 1, 11 (2011) (“Instrumental violence is evident when violence is modeled by a parent at home and a child learns a lesson that aggressive behavior is a way to get what he or she wants.”); THE BODY SHOP INT’L & U.N. CHILDREN’S FUND, *BEHIND CLOSED DOORS: THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN* (2009), <https://www.unicef.org/protection/files/BehindClosedDoors.pdf>.

27. See THE BODY SHOP INT’L & U.N. CHILDREN’S FUND, *supra* note 26.

28. Jennifer E. Lansford & Kenneth A. Dodge, *Cultural Norms for Adult Corporal Punishment on Children and Societal Rates of Endorsement and Use of Violence*, 8 PARENT SCI. PRAC. 257, 263 (2009).

29. See, e.g., THE BODY SHOP INT’L & U.N. CHILDREN’S FUND, *supra* note 26.

30. Sorensen et al., *supra* note 6, at 6.

31. Clayton A. Hartjen, *Institutional Victimization*, in *THE GLOBAL VICTIMIZATION OF CHILDREN: PROBLEMS AND SOLUTIONS* 237 (2012).

Notably, there are similarities between excessive corporal punishment and other types of family violence.³² For example, if a parent crosses the line from excessive corporal punishment to actual child abuse, the situation arguably extends past mere discipline of the child.³³ In a child abuse situation, the adult perpetrator often utilizes control and abuse to isolate and intimidate the child.³⁴ This is not unlike the dynamics of interpersonal violence. Excessive physical discipline in the home can manifest physically and psychologically.³⁵ It can create an unstable, uncertain and unsafe environment for a child, who is under the parent's constant threat of, or actual harm.³⁶ Findings of parental violence in the home have been fairly gendered when it comes to violence between the parents, in that—assuming in a heterosexual, cisgender couple, the perpetrator of the violence is the father and the victim is the mother—boys grow up much more likely to be abusers, and girls grow up much more likely to be victims.³⁷ Researchers have posited that abused children or those witnessing family violence draw parallels to children at war because their environment is so unpredictable.³⁸

The consequences of violence in the home—of any kind—may manifest in the child in the form of psychological disorders.³⁹ These disorders include post-traumatic stress disorder (PTSD), which can include resultant mental health issues, such as depression and

32. Todd I. Herrenkohl et al., *Intersection of Child Abuse and Children's Exposure to Domestic Violence*, 9 TRAUMA, VIOLENCE & ABUSE 84, 84 (2008) (“Children subjected to child abuse are often exposed to other forms of risk, including co-occurring exposure to domestic violence . . .”); Doriane Lambelet Coleman et al., *Where and How to Draw the Line Between Reasonable Corporal Punishment and Abuse*, 73 L. CONTEMP. PROBS. 107, 107–66 (2010) (comparing and defining reasonable corporal punishment and child abuse); Jennifer E. Lansford et al., *Attitudes Justifying Domestic Violence Predict Endorsement of Corporal Punishment and Physical and Psychological Aggression towards Children: A Study in 25 Low- and Middle-Income Countries*, 164 J. PEDIATRICS 1208, 1208–13 (2014) (finding that women who were accepting of husbands hitting their wives was related to acceptance of corporal punishment and physical violence toward children).

33. See *supra* note 32.

34. See Melissa L. Breger, *Healing Sex-Trafficked Children: A Domestic Family Law Approach to an International Epidemic*, 118 W. VA. L. REV. 1131, 1159 (2016).

35. See, e.g., THE BODY SHOP INT'L & U.N. CHILDREN'S FUND, *supra* note 26.

36. See Breger, *supra* note 34, at 1160.

37. UNICEF, DOMESTIC VIOLENCE AGAINST CHILDREN (2007), https://www.unicef.org/sowc07/docs/sowc07_panel_2_1.pdf.

38. Breger, *supra* note 34, at 1160; Helen Burman, *The Relevance of Narrative Research with Children Who Witness War and Children Who Witness Woman Abuse*, 3 J. AGGRESSION, MALTREATMENT, & TRAUMA 107–25 (2008) (noting the similarities and differences between children of war and children of abused women: “While the experiences of children of war and children of battered women vary considerably, their stories are, in some senses, remarkably similar. Both groups witnessed a multitude of atrocities, and almost all endured at least some degree of loss, uprooting, and separation”).

39. See Sorensen et al., *supra* note 6, at 1161.

suicidal ideation,⁴⁰ or other consequential behavior, such as “acting out, bedwetting and elimination disorders.”⁴¹ The psychological and social science literature is replete with indications that PTSD is commonly associated with violence or other trauma.⁴²

Certainly it should be noted that there are critics of the conclusion that all physical discipline is damaging to children, often pointing to the fact that physical abuse and physical discipline are distinct, and discipline perhaps can even be beneficial.⁴³ For example, some researchers insist upon a distinction between corporal punishment in general and excessive corporal punishment or child abuse, because they view discipline as an appropriate way to shape or curb a child’s misbehavior, whereas child abuse is a separate issue.⁴⁴ While this may be true in the purest sense of the words, often parental discipline falls into a gray area, instead of into black and white categories of corporal punishment versus excessive or abusive corporal punishment.⁴⁵ Even courts and law enforcement find that what perhaps was intended to be mere discipline can be morphed into excessive physical abuse.⁴⁶

40. Sege & Siegel, *supra* note 25, at 2; Jessica Koolick et al., *PTSD Symptoms in Young Children Exposed to Intimate Partner Violence in Four Ethno-racial Groups*, 9 J. CHILD & ADOLESCENT TRAUMA 97, 97 (2016) (explaining that previous research has consistently found children exposed to intimate partner violence have internalizing problems such as depression, anxiety, and symptoms of PTSD).

41. Breger, *supra* note 34, at 1163; Jill Astbury et al., *The Impact of Domestic Violence on Individuals*, 173 MED. J. AUSTL. 427, 427 (2000) (stating that some of the psychological consequences of childhood violence include bedwetting and running away).

42. Breger, *supra* note 34, at 1161.

43. See Diana Baumrind et al., *Ordinary Physical Punishment: Is It Harmful? Comment on Gershoff (2002)*, 128 PSYCH. BULLETIN. 580, 585 (2002) (“The reason non-abusive parents use punishment, including CP, is primarily to achieve short-term behavioral compliance . . . which should be distinguished from dispositional compliance.”); Robert E. Larzelere & Brett R. Kuhn, *Comparing Child Outcomes of Physical Punishment and Alternative Disciplinary Tactics: A Meta-Analysis*, 8 CLINICAL CHILD & FAM. PSYCH. REV. 1, 1 (2007) (explaining that this study found an optimal type of physical discipline that led to better child outcomes than alternative tactics).

44. See *supra* note 43.

45. See, e.g., AM. PSYCH. ASS’N, RESOLUTION ON PHYSICAL DISCIPLINE OF CHILDREN BY PARENTS 5, <https://www.apa.org/about/policy/physical-discipline.pdf> (“The vast majority of parents who engage in physical discipline of children do not intend to cause serious physical or emotional harm to their children. Nonetheless, physical discipline may unintentionally result in negative behavioral, social, and emotional outcomes for children. Physical discipline can also escalate into physical abuse.”); see also Coleman et al., *supra* note 32, at 110–12 (explaining legal definitions of reasonable corporal punishment and abuse varies by state and physical discipline falls on a continuum); Public Relations Staff, *The Gray Area of Disciplining Children*, AKRON CHILDREN’S HOSP., <https://inside.akronchildrens.org/2014/10/09/the-gray-area-of-disciplining-children> (interviewing a pediatric psychologist who stated that “people don’t have a really specific definition of where the line is between the use of spanking as a parent’s right or prerogative and when it does cross the line into child abuse, something illegal or a violation of statutes”).

46. In fact, as noted in Section IV.B, in some states such as New York, being too excessive in corporal punishment will transform a case to child neglect implicating child welfare authorities and courtroom proceedings.

This Article takes the normative stance that any physical discipline is harmful to children. In this Article, we are making the normative argument that if children's voices are consistently heard, children would choose not to be punished physically at all. This normative argument is open for debate, but we base the recommendations in this Article from that particular standpoint and perspective.

The data we examined did not specify whether a country legalizes customary physical discipline as opposed to excessive physical discipline, but many would argue—including the American Academy of Pediatrics, as will be explained in detail below—that physical discipline is harmful regardless of intent or excessiveness on the part of the parent.⁴⁷

As social science research has increasingly found that corporal punishment may have negative physical, psychological, emotional, and mental effects on a child's well-being, corporal punishment has been increasingly seen as an inappropriate disciplinary practice.⁴⁸

47. See Donald E. Greydanus et al., *Corporal Punishment in Schools: Position Paper of the Society for Adolescent Medicine*, 13 J. ADOLESCENT HEALTH 385, 389 (2003) (“Advocates of corporal punishment note that it should be proportioned out in limited doses, based on the offense and without attempt to physically harm.”); David Orentlicher, *Spanking and Other Corporal Punishment of Children by Parents: Undervaluing Children, Overvaluing Pain*, 38 HOUS. L. REV. 147, 156 (1998) (“There are several potential harms from corporal punishment. The most obvious risk is that of physical injury to the child.”).

48. See NADINE A. BLOCK, *BREAKING THE PADDLE: ENDING SCHOOL CORPORAL PUNISHMENT* (2013); Doreen Arcus, *School Shooting Fatalities and School Corporal Punishment: A Look at the States*, 28 AGGRESSIVE BEHAV. 173, 175, 178 (2002); Lisa J. Berlin et al., *Correlates and Consequences of Spanking and Verbal Punishment for Low-Income White, African American, Mexican American Toddlers*, 80 CHILD DEV. 1403, 1417 (2009); GLYNIS CLACHERTY ET AL., *CHILDREN'S EXPERIENCE OF CORPORAL AND HUMILIATING PUNISHMENT IN SWAZILAND* (2005); David R. Dupper & Amy E. Montgomery Dingus, *Corporal Punishment in U.S. Public Schools: A Continuing Challenge for School Social Workers*, 30 CHILDREN & SCHOOLS 243, 245–46 (2008); Sheryl Feinstein & Lucas Mwachombela, *Corporal Punishment in Tanzania's Schools*, 56 INT'L REV. EDUC. 399, 402 (2010); Elizabeth T. Gerschoff & Andrew Grogan-Kaylor, *Spanking and Child Outcomes: Old Controversies and New Meta-Analyses*, 30 J. FAM. PSYCHOL. 453, 463 (2016); Elizabeth T. Gerschoff et al., *Strengthening Causal Estimates for Links Between Spanking and Children's Externalizing Behavior Problems*, 29 PSYCHOL. SCI. 110, 110 (2018); Elizabeth T. Gerschoff et al., *Longitudinal Links Between Spanking and Children's Externalizing Behaviors in a National Sample of White, Black, Hispanic, and Asian American Families*, 83 CHILD DEV. 838, 838 (2012); Helen Baker-Henningham et al., *Experiences of Violence and Deficits in Academic Achievement Among Urban Primary School Children in Jamaica*, 33 CHILD ABUSE & NEGLECT 296, 297 (2009); Irwin A. Hyman, *Corporal Punishment, Psychological Maltreatment, Violence, and Punitiveness in America: Research, Advocacy, and Public Policy*, 4 APPLIED & PREVENTATIVE PSYCHOL. 113, 114, 116 (1995); Irwin A. Hyman & Donna C. Perrone, *The Other Side of School Violence: Educator Policies and Practices That May Contribute to Student Misbehavior*, 36 J. SCH. PSYCHOL. 7, 8, 17, 19, 22 (1998); Victoria Talwar et al., *Effects of a Punitive Environment on Children's Executive Functioning: A Natural Experiment*, 20 SOC. DEV. 805, 807 (2011); MARIA JOSE OGANDO ET AL., *CORPORAL PUNISHMENT IN SCHOOLS: LONGITUDINAL EVIDENCE FROM ETHIOPIA, INDIA, PERU, AND VIET NAM* (2015); Stephen S. Owen, *The Relationship between Social Capital and Corporal Punishment in Schools: A Theoretical Inquiry*, 37 YOUTH & SOC'Y 85, 87 (2005);

We questioned why then do a fair amount of countries legalize and even espouse physical discipline instead of non-physical punishments like time outs, taking away privileges, and the like? What factors weigh in to the equation about which countries permit physical corporal punishment by parents and caretakers? These questions inspired our research to examine countries worldwide and their laws (or lack of laws) about physical discipline of children in the home.

B. Common Law, Statutes, & Laws

1. Inter-country Variance

The laws about corporal punishment in the home vary widely across the globe.⁴⁹ Even the way that parenting laws are legislated or created will differ in each country.⁵⁰ From the older continental European civil codes that children must honor and respect their parents—to the English common law originally rooted in patriarchy—to the Nordic countries' sweeping ban of corporal punishment—there is tremendous variance.⁵¹

What accounts for this variance? Many parenting laws reflect the norms of the particular countries where they emanate. As family law scholar Professor Mary Ann Glendon so aptly notes: “family law . . . [symbolizes cultural ideals] Probably no other area of [the law] is so replete with legal norms that communicate ideas about proper behavior”⁵²

As far back as the ancient Greeks, Hebrews, Romans and Babylonians, fathers had a proprietary interest in their children, thus allowing the sale, exchange, or even killing of their children.⁵³ Based upon certain religious authorities, some individuals believed that children were born inherently evil and must have the “devil [beaten

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, 480 (2009); Randa Mahmoud Youssef et al., *Children Experiencing Violence II: Prevalence and Determinants of Corporal Punishment in Schools*, 22 CHILD ABUSE & NEGLECT 975, 984 (1998); Virginia Morrow & Renu Singh, *Corporal Punishment in Schools in Andhra Pradesh, India: Children's and Parents' Views* 17 (Young Lives An International Study of Childhood Poverty, Working Paper No. 123, 2014); Katherine Covell & Jo Becker, *Five Years On: A Global Update On Violence Against Children*, NGO ADVISORY COUNCIL (2011), <https://resourcecentre.save.thechildren.net/library/five-years-global-update-violence-against-children-report-ngo-advisory-council-follow-un> [<http://perma.cc/ME9C-CSPJ>].

49. See Convention on the Rights of the Child, *supra* note 16.

50. *Id.*

51. *Id.*

52. MARY ANN GLENDON, ABORTION AND DIVORCE IN WESTERN LAW 9–10 (1987).

53. Leonard P. Edwards, *Corporal Punishment and Legal System*, 36 SANTA CLARA L. REV. 983, 986–87 (1995).

out of] them.”⁵⁴ During the Colonial era through the early nineteenth century, immigrants who came to the United States brought with them the tradition of corporal punishment, which was thought to be a necessary means of restraint to correct sinful or immoral behavior.⁵⁵ Even during the Enlightenment period, when parents were advised to be loving and tender with their children, they were to command strict obedience at an early age.⁵⁶ It was not until later in the nineteenth century that young Western settlers began to abandon the harsh rule of parental supremacy.⁵⁷ Yet, in many parts of the globe, parental supremacy still reigns.⁵⁸

Corporal punishment remains a controversial issue, and thus we acknowledge further caveats, which are outside the scope of this Article. For example, this Article acknowledges, but does not explore, cultural and religious perspectives on child-rearing, where physical punishment is seen as a beneficial and positive practice.⁵⁹ Some cultures see excessive discipline as a sign of good parenting.⁶⁰ In certain cultures, corporal punishment is not viewed as detrimental but rather as a tool to aid in child development.⁶¹ In other segments of society, where parents are concerned about raising children in a society that often condemns those of a different nationality, race, and class, children need to be reared to follow rules in order to protect themselves from harm by the government or law enforcement.⁶² Thus,

54. *Id.* at 987; see *Proverbs* 23:13–14 (“Withhold not correction from the child: for if thou beatest him with the rod, he shall not die. Thou shalt beat him with the rod, and shalt deliver his soul from hell.”); see also *People v. Mummert*, 50 N.Y.S.2d 699, 703–04 (Nassau County Ct. 1944) (citing *Proverbs* 23:13–14).

55. See Leonard P. Edwards, *Corporal Punishment and Legal System*, 36 SANTA CLARA L. REV. 983, 986–87 (1995).

56. Edwards, *supra* note 53, at 989.

57. *Id.*; see ELLIOTT WEST, *GROWING UP WITH THE COUNTRY: CHILDHOOD ON THE FAR WESTERN FRONTIER* 158–59 (1989).

58. Edwards, *supra* note 53, at 989.

59. See Sorensen et al., *supra* note 6, at 10–13.

60. See, e.g., COMMITTEE ON SUPPORTING THE PARENTS OF YOUNG CHILDREN, *PARENTING MATTERS* 57 (Vivian L. Gadsden et al. eds., 2016), https://www.ncbi.nlm.nih.gov/books/NBK402024/pdf/Bookshelf_NBK402024.pdf (“Parents within and across different communities vary in their opinions and practices with respect to the role and significance of discipline. Some of the parenting literature notes that some parents use control to discipline children, while others aim to *correct* but not to control children . . . [M]any middle-class U.S. parents display a preference for applying the same rules to infants and toddlers that older children are expected to follow, although with some lenience. And ethnographic research provides some evidence of differences in African American and European American mothers’ beliefs about spoiling and infant intentionality (whether infants can intentionally misbehave) related to the use of physical punishment with young children.”) (internal citations omitted).

61. See Sorensen et al., *supra* note 6, at 11.

62. See Carla Murphy, *Parenting While Black: Toya Graham on Violence, Fear and Freddie Gray*, SLICE (Aug. 11, 2015), <https://talkingpointsmemo.com/theslice/parenting>

strict discipline in the home is seen as enabling children to flourish in society.⁶³ Further, in some regions, parents are seen as having an actual duty to discipline their children even if harshly.⁶⁴

For example, in countries like China⁶⁵ and India,⁶⁶ physical discipline of children in the home is common and socially acceptable as part of the culture of the country.⁶⁷ Still other countries have entirely outlawed physical discipline against children in the home across the entire country, such as in Sweden, Norway, New Zealand, Honduras,

-while-black-toya-graham-baltimore-freddie-gray [<http://perma.cc/S4HD-93WN>] (“There was a time when Black children were the best behaved children in the world [and that was a time] when our mothers [hit us] like Toya Graham.”); Janell Ross, *Black Parents Take their Kids to School on How to Deal with Police*, WASH. POST (Jan. 3, 2017), https://www.washingtonpost.com/national/black-parents-take-their-kids-to-school-on-how-to-deal-with-police/2017/01/03/86129c1c-c6be-11e6-bf4b-2c064d32a4bf_story.html?noredirect=on&utm_term=.4a8b7e36b7f0 [<http://perma.cc/7C8E-LMK7>]; Karen Valby, *The Realities of Raising a Kid of a Different Race*, TIME, <https://time.com/the-realities-of-raising-a-kid-of-a-different-race/> [<http://perma.cc/JQM2-EQN5>] (discussing how raising a black child includes teaching them how to survive in modern society).

63. One study shows many United States adults think it is acceptable and even necessary at times to spank a child, but these findings varied demographically with the highest approval in the American South, among the Black community, Conservative Protestants, and persons with lower socioeconomic status and education. See Ta-Nehisi Coates, *Race, Parenting and Punishment*, ATLANTIC (Jan. 22, 2010), https://www.theatlantic.com/entertainment/archive/2010/01/race-parenting-and-punishment/34005/?utm_source=atl&utm_medium=email&utm_campaign=share [<http://perma.cc/9CHJ-YKF2>] (discussing how black people who commit transgressions are subject to a higher price, thus, black parents punish more frequently and often harsher than parents of other cultures); Catherina A. Taylor et al., *Perceived Social Norms, Expectations, and Attitudes Toward Corporal Punishment Among an Urban Community Sample of Parents*, 88 J. U. HEALTH 254, 255 (2011).

64. This Article also does not delve into issues of what happens to a family when child abuse laws are enforced, such as the removal of children from parents as part of the general child welfare system. Thus, the Article does not address the related issue of class- and race-based implicit biases and decision-making that are implicated in the American child welfare system; these are researched and noted extensively in already existing literature. See DOROTHY ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* (2003); see also MARTIN GUGGENHEIM, *WHAT’S WRONG WITH CHILDREN’S RIGHTS* (2007).

65. See, e.g., Jing Zhang, *Understanding Chinese Cultural Child-Rearing Attitudes and Practices*, 7 N.Y. ST. CHILD WELFARE/CHILD PROTECTIVE SERVS. TRAINING INST. (2014), <https://pdfs.semanticscholar.org/73a1/ed0f5da355eef66d5f14fb1c82e543a3b2fd.pdf> (explaining that Chinese parenting style is authoritarian; a style of child-rearing that is linked to a tendency to control kids through shaming and withdrawal of love. The Chinese culture believes in training children, known as *chiaoshun*, and is rooted in the teachings of Confucius. It is believed that the use of harsh language and strict discipline indicates parental trust and high expectations of children’s performance).

66. CHILD ABUSE & NEGLECT: CROSS-CULTURAL PERSPECTIVES 72 (Jill E. Korbin ed., 1981) (explaining that abusive parental behavior can be found in rural India. What may be considered child abuse in Western culture is often viewed as a normal child-rearing practice in these regions).

67. Cf. Lansford & Dodge, *supra* note 28 (studies from Parenting Across Cultures concluded that parent physical discipline is only really harmful to children in societies for which physical discipline is not the norm. That is, in countries where some form of parental physical discipline is a regular practice, children do not seem to experience the same psychological consequences as in countries where not all parents use physical discipline).

Brazil, and Portugal.⁶⁸ In 2019, Japan—one of the first countries to outlaw physical discipline of children in the school setting—put forth legislation to outlaw it completely in the home.⁶⁹ Norms are changing, as will be explored in detail in the sections ahead.

As children began to inure individual legal rights over time, they were still fairly limited in what those legal rights afforded them pertaining to parental discipline.⁷⁰ For example, the doctrine of parental tort immunity,⁷¹ which applies in some countries and formerly applied in nearly all states in the United States, prevents children from bringing legal actions against their parents when harm is caused by corporal punishment.⁷² The doctrine contains a specific parental privilege exception⁷³ which allows “the infliction of reasonable punishment and chastisement by a parent or other person standing *in loco parentis*.”⁷⁴ In recent years, some American courts have permitted children to bring civil lawsuits against their parents for harm caused by corporal punishment.⁷⁵

For various reasons, some countries are further behind than others in their progress on children’s rights.⁷⁶ For example, some countries have laws based on precedent rooted in patriarchy. Others have laws based primarily in common law precedent, which we address

68. Jacqueline Howard, *These Are the Countries Where Spanking is Illegal*, CNN (Mar. 12, 2018), <https://www.cnn.com/2018/03/12/health/spanking-laws-parenting-without-borders-intl/index.html> [<http://perma.cc/4KUG-6F6A>]. Sixty countries, states, and territories have fully prohibited using corporal punishment against children at home, including: Albania, Andorra, Argentina, Aruba, Austria, Benin, Bolivia, Brazil, Bulgaria, Cape Verde, Congo, Costa Rica, Croatia, Curaçao, Cyprus, Denmark, Estonia, Faroe Islands, Finland, Germany, Greece, Greenland, Honduras, Hungary, Iceland, Ireland, Israel, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mongolia, Montenegro, Netherlands, New Zealand, Nicaragua, Norway, Paraguay, Peru, Pitcairn Islands, Poland, Portugal, Moldova, Romania, San Marino, Slovenia, South Sudan, Spain, St. Maarten, Svalbard, Jan Mayen, Sweden, Macedonia, Togo, Tunisia, Turkmenistan, Ukraine, Uruguay, and Venezuela.

69. *Country Report for Japan*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/japan> [<http://perma.cc/9QQK-MGSK>] (last updated Feb. 2020).

70. *See id.*

71. *See* *Hewlett v. George*, 9 So. 835, 837 (Miss. 1891) (“The peace of society and of the families composing society, and a sound public policy, designed to subserve the repose of families and the best interest of society, forbid to the minor child a right to appear in court in the assertion of a claim to civil redress for personal injuries suffered at the hand of the parent.”). The holding in *Hewlett v. George* was recognized and followed in other courts and ultimately barred children from bringing civil tort actions against their parents.

72. Edwards, *supra* note 53, at 1008.

73. RESTATEMENT (SECOND) OF TORTS § 147 (AM. LAW INST. 1965) (“A parent is privileged to apply such reasonable force or to impose such reasonable confinement upon his child as he reasonably believes to be necessary for its proper control, training, or education.”).

74. Edwards, *supra* note 53, at 1007–08.

75. *Id.*

76. *Id.*

in our related paper.⁷⁷ Other countries have limited children's rights due to the predominant religious views in that country, viewing children as inferior beings compared to adults.⁷⁸ Still other nations have cultural views that children must always obey their parents or risk physical punishment.⁷⁹ And then there are countries on the other end of the spectrum that afford substantial rights to children as individual legal beings.⁸⁰

2. *Intra-country Variance*

In some countries, there is variance even within the same nation's borders.⁸¹ This is most obviously apparent within the United States, because there are fifty individual states and no overarching federal Supreme Court precedent pertaining exclusively to child corporal punishment in the home. A federal Supreme Court case exists pertaining to child corporal punishment in school settings, but even then, it was not outlawed.⁸² Thus, the laws that govern child discipline in the home derive from individual state legislation and state case law. Landmark federal cases like *Meyer v. Nebraska*,⁸³ *Pierce v. Society of Sisters*,⁸⁴ and others have created long-standing overarching legal precedent supporting the view that parents know what is best for their children, and thus, in turn, generally act in the best interests of these children.⁸⁵ State laws govern what type and to what extent physical corporal punishment is allowed, and also when the discipline is too excessive and deemed to be child abuse and/or child neglect.⁸⁶ As can be expected, these definitions vary in many ways within the United States.⁸⁷

To give one comparative state example, New York categorizes excessive corporal punishment by a parent to a child as child neglect, delineating when, *inter alia*, the physical force is disproportionate to the harm by the child or lasting marks are left on a sensitive part

77. Sorensen et al., *supra* note 6, at 6.

78. Edwards, *supra* note 53, at 1008.

79. *Id.*

80. *Id.*

81. *See id.*

82. *See* *Ingraham v. Wright*, 430 U.S. 651, 700 (1977).

83. *Meyer v. Nebraska*, 262 U.S. 390 (1923).

84. *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

85. MATTHEW PATE & LAURIE A. GOULD, *CORPORAL PUNISHMENT AROUND THE WORLD* 3 (Praeger Books 2012).

86. *Id.*

87. *Id.* ("In an effort to distinguish between corporal punishment and abuse," Elisabeth Gershoff looks to various statutory definitions in the United States noting that some states require that the discipline is "appropriate", "moderate", "necessary" or with "nondeadly force . . .").

of the child's body.⁸⁸ Other factors include whether an object or instrument was used in the discipline;⁸⁹ any injury or lasting marks endured;⁹⁰ the history of corporal punishment in the family;⁹¹ and the age and behavior of the child in general.⁹² Another consideration New York courts look to when determining whether punishment is excessive is the reason for the discipline.⁹³ This is utilized as a measuring stick of sorts, as a means to assess the proportionality of the punishment, i.e., whether the child was stealing a cookie or assaulting a sibling.⁹⁴ In New York, the infliction of "excessive corporal punishment" is considered child neglect: further defined as a failure of a parent to exercise a "minimum degree of care" in the upbringing of the child.⁹⁵ Notably, in jurisdictions such as New York, foster children are never allowed to be disciplined in any physical way whatsoever.⁹⁶ Inherent in this policy is the normative belief that physical punishment is harmful and certainly should not be utilized, especially when a child is a ward of the state.

In contrast to New York, other states categorize excessive corporal punishment as child abuse instead of child neglect.⁹⁷ For example, the state of West Virginia includes in its definition of an abused child mention of excessive corporal punishment as a form of impermissible physical injury.⁹⁸ Similarly in other states, such as New Jersey and Rhode Island, corporal punishment outside the standards of decency is viewed and governed by child abuse laws,⁹⁹ and the parental behavior of disciplining children rises to the level of child abuse.¹⁰⁰

88. *In re Johannah "QQ"*, 266 A.D.2d 769, 770–71 (1999).

89. *Id.* (finding when a father struck child with hands and belt was excessive corporal punishment); *Suffolk County Dep't of Social Servs. v. Nicole S.*, 699 N.Y.S.2d 126, 126–27 (1999) (discussing where parent had whipped child with a wire and belt).

90. *In re J. Children*, 713 N.Y.S.2d 325, 325–36 (2000) (noting scarring as a result of corporal punishment); *In re Asia B.*, 699 N.Y.S.2d 88, 89 (1999) (categorizing a laceration to the head as a serious injury).

91. *In re Douglas "QQ"*, 273 A.D.2d at 713 (noting the repeated use of corporal punishment).

92. *Id.*

93. *Id.*

94. *See Matter of Mary Kate VV v. Dennis VV.*, 873 N.Y.S.2d 375, 376–78 (2009) (discussing the reasons for abuse such as, errors on homework or failing to line up bottles properly); *In re Asia B.*, 699 N.Y.S.2d 88, 89 (1999).

95. N.Y. Family Court Act § 1012(f)(1) (1970).

96. *See, e.g.*, N.Y. STATE OFFICE OF CHILDREN & FAMILY SERVS., N.Y. STATE FOSTER PARENT MANUAL 26 (2010), <https://ocfs.ny.gov/main/publications/Pub5011.pdf> ("Corporal punishment is prohibited.").

97. *See* W. VA. CODE § 49-1-201 (1970).

98. *Id.*

99. New Jersey (N.J. STAT. ANN. § 9:6-8.21(b) (West 2012)); Rhode Island (40 R.I. GEN. LAWS § 40-11-2(1)(ii) (2018)).

100. District of Columbia (D.C. CODE § 4-1301.02 (2020)); Illinois (705 ILL. COMP. STAT. ANN. 405/2-3(2)(v) (West 2019)); Nevada (NEV. REV. STAT. ANN. § 128.013 (LexisNexis

States may use certain qualifiers to distinguish between what is corporal punishment as discipline as opposed to child abuse, such as “necessary”, “appropriate”, “moderate” or with “non-deadly force”.¹⁰¹

Ultimately, state laws governing each of the fifty states dictate the severity, the extent, the method, and the permissibility of various forms of parental discipline.¹⁰² No real uniformity exists across the fifty states about what types of corporal punishment are allowed, tolerated or punished. As noted earlier, there has been no such edict from the Supreme Court on the topic of home discipline, thus no overarching federal case law for which the states need to comply.¹⁰³

Significantly however, in 2019, the American Academy of Pediatrics (AAP) published an updated statement hardening their stance and shifting their approach relating to parental discipline.¹⁰⁴ The policy statement condemns corporal punishment as an effective means of parental discipline.¹⁰⁵ In its 2019 policy statement, the AAP defines corporal punishment as “non-injurious, open-handed hitting with the intention of modifying child behavior.”¹⁰⁶ The AAP cites evidence to suggest that corporal punishment is not an effective strategy for disciplining children, and it cites research that demonstrates a correlational relationship between children who are disciplined with corporal punishment and those who later develop behavioral problems and aggressive and depressive symptoms.¹⁰⁷ Due to an increase in research on this topic, pediatricians are more confident stating that parents should refrain from hitting and verbally insulting their children and instead set behavioral expectations and practice

2001); New Jersey (N.J. STAT. ANN. § 9:6-8.21(b) (West 2012)); West Virginia (W. VA. CODE § 49-1-201 (1970)).

101. See PATE & GOULD, *supra* note 85, at 3 (In an effort to distinguish between corporal punishment and abuse, Elisabeth Gershoff looks to various statutory definitions in the United States noting that some states require that the discipline is “appropriate” or “moderate” “necessary” or with “nondeadly force”).

102. As explained earlier, some states, such as New York, will allow limited forms of parental discipline, but any action that moves beyond the tolerated and culturally acceptable norms of discipline in the state is named “excessive corporal punishment”—and is governed by the laws of child neglect. N.Y. Penal Law § 35.10.

103. *Cf.* Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C.S. § 5101 (2019).

104. Sege & Siegel, *supra* note 25, at 2; see Jacqueline Howard, *Pediatricians Strengthen Stance Against Spanking Kids*, CNN (Nov. 18, 2018), <https://www.cnn.com/2018/11/05/health/spanking-children-healthy-discipline-study> [http://perma.cc/4MHX-HYVV]. The American Association for Pediatricians came forward with its first public admonishment of physical discipline against children.

105. Howard, *supra* note 104.

106. *Id.*

107. See PATE & GOULD, *supra* note 85, at xxi (citing a range of psychological effects of child corporal punishment later in the child’s life, such as bullying, low school achievement, higher school dropout rates); SUSAN M. TURNER, SOMETHING TO CRY ABOUT: AN ARGUMENT AGAINST CORPORAL PUNISHMENT OF CHILDREN IN CANADA 84 (Cynthia Comacchio, ed. 2002).

positive reinforcement of good behavior.¹⁰⁸ With release of the new policy standpoint, pediatricians are now encouraged to counsel and foster a discussion with parents about effective and safe approaches to disciplining their children without the use of spanking.¹⁰⁹ The major components of the guidelines focus on reinforcing positive behavior and tailoring the discipline to the child's age and capacity to understand the discipline.¹¹⁰ Whether this unprecedented statement condemning corporal punishment from a national group of pediatricians will have any effect upon the laws of any particular state remains to be seen, but it certainly is a normative and possibly a transformative shift in American societal views, as one example of changing global norms on the topic.¹¹¹

C. *The Impact of the CRC*

One source of guidance across all countries on the topic of child corporal punishment emerges from an international human rights treaty mentioned in the introduction of this Article. Specifically, the CRC, the most widely ratified human rights treaty in the world,¹¹² offers some guidance on a whole range of legal issues and rights pertaining to children.

The CRC's history dates back to 1924, when the League of Nations adopted a Declaration on the Rights of the Child.¹¹³ A broadened version of the Declaration was adopted by the United Nations in 1979.¹¹⁴ Then, over the course of a decade, summits were held internationally to fine-tune the wording of the treaty, which was thereafter unanimously adopted in 1989 by the United Nations General Assembly.¹¹⁵ To date, 196 countries have ratified the CRC.¹¹⁶ Notably,

108. See Sege & Siegel, *supra* note 25, at 2.

109. *Id.*

110. *Id.*

111. *Id.* (The AAP even goes one step further to declare that non-physical discipline, such as verbal degradation and verbally abusive behavior, constitutes inappropriate parental discipline for children. Notably, the American Academy of Pediatrics indicated that "verbal abuse" is not appropriate as discipline either).

112. Convention on the Rights of the Child, *supra* note 16; Maria Grahn-Farley, *International Child Rights at Home and Abroad: A Symposium on the UN Convention on the Rights of the Child: I. Foreword: Crossing Borders*, 30 CAP. U. L. REV. 657 (2002); *UN Lauds Somalia as Country Ratifies Landmark Children's Rights Treaty*, UN NEWS (Jan. 20, 2015), <https://news.un.org/en/story/2015/01/488692-un-lauds-somalia-country-ratifies-landmark-childrens-rights-treaty> [<http://perma.cc/ME5Z-6ZSN>].

113. See *Geneva Declaration on the Rights of the Child*, U.N. DOCUMENTS, <http://www.un-documents.net/gdrc1924.htm> [<http://perma.cc/83PL-K8HW>] (last visited Mar. 22, 2020).

114. See generally OFFICE OF THE U.N. HIGH COMM'R FOR HUMAN RIGHTS, LEGISLATIVE HISTORY OF THE CONVENTION ON THE RIGHTS OF THE CHILD 69 (2007), <https://www.ohchr.org/Documents/Publications/LegislativeHistorycrc1en.pdf>.

115. *Id.*

116. U.N. TREATY COLLECTION, <https://treaties.un.org/Pages/ViewDetails.aspx?src>

the United States is the only country in the world that has not ratified the CRC.¹¹⁷

When a country signs but does not ratify a treaty—as is the case of the United States with respect to the CRC—that country is still bound not to contravene the treaty’s object or purposes.¹¹⁸ Indeed, as researcher Finkelman has noted: “while not yet bound to perform those obligations, the parties ‘should [make] no efforts that would defeat the object and purpose’ [of the recommendations].”¹¹⁹ Moreover, some American state courts have noted that provisions of the CRC may eventually have the force of customary international law.¹²⁰ Thus, to some extent, the CRC retains force and legitimacy even in the United States.

The notion that children’s rights and voices need to be heard in and out of a courtroom has gained significant attention, specifically in the legal and academic communities.¹²¹ Although there can be no perfect model for each and every jurisdiction, using the CRC as a framework to implement effective practices is a fitting way to highlight children’s rights. Many would argue that it was not until the CRC, containing several protections for children, that many countries envisioned children as having individualized legal protections in many respects.¹²² As a whole, the CRC conveys humanitarian, economic, social, cultural, political and legal rights to the individual child, thereby allowing children’s rights to parallel those of adults.¹²³

=IND&mtdsg_no=IV-11&chapter=4&lang=en [http://perma.cc/KP79-2DG7] (last visited Mar. 22, 2020).

117. *Id.*

118. See Melissa L. Breger, *Against the Dilution of a Child’s Voice in Court*, 20 IND. INT’L & COMP. L. REV. 175, 178 (2010).

119. Andrew D. Finkelman, *The Post-Ratification Consensus Agreements of the Parties to the Montreal Protocol: Law or Politics? An Analysis of Natural Resources Defense Council v. EPA*, IOWA L. REV. 665, 725 (citing Article 18 of the Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 336); see also Christopher C. Joyner, *The Legal Status and Effect of Antarctic Recommended Measures*, in COMMITMENT AND COMPLIANCE: THE ROLE OF NON-BINDING NORMS IN THE INTERNATIONAL LEGAL SYSTEM (Dinah Shelton, ed., 2003) (“[G]overnments . . . remain obliged in spirit, if not in law, not to defeat the object and purpose of the measure . . .”).

120. See, e.g., *Nicholson v. Williams*, 203 F. Supp. 2d, 153, 234 (E.D.N.Y. 2002). Some scholars have argued that the CRC will soon be customary international law given its widespread consensus. See, e.g., Gary B. Melton, *Children, Family, and the Courts of the Twenty-First Century*, 66 S. CAL. L. REV. 2039–40 (1993). For a comprehensive outline of cases which see the CRC as customary international law, or cite to the CRC, see Jean Koh Peters, *The Roles and Content of Best Interests in Client-Directed Lawyering for Children in Child Protective Proceedings*, 64 FORDHAM L. REV. 1507 (1996).

121. Melton, *supra* note 120, at 2039–40; see also Breger, *supra* note 118, at 175.

122. OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, *supra* note 114, at 69.

123. See, e.g., Grahn-Farley, *supra* note 112, at 659–61; Howard Davidson, *A Model Child Protection Legal Reform Instrument: The Convention On The Rights Of The Child And Its Consistency With United States Law*, 5 GEO. J. ON FIGHTING POVERTY 185 (1998).

The CRC challenged the use of corporal punishment, labeling the practice as a violation of children's dignity and a form of violence against children.¹²⁴ Article 19 guarantees that children are protected from physical and mental violence.¹²⁵ Specifically, Article 19 reads:

Parties shall take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of [the] parent(s) [or] legal guardian(s) or any other person who has the care of the child.¹²⁶

Article 37 protects children from cruel and degrading punishment.¹²⁷

Despite the progressive provisions contained in the CRC, many would argue that enforcement is weak.¹²⁸ Although 196 countries ratified the agreement, corporal punishment in homes most certainly still exists across the globe.¹²⁹ The research team looked at whether and when a country ratified the CRC, and then delved deeply into the CRC self-reports of each country to gather more information about implementation, as will be addressed in Part IV.¹³⁰

II. THE INTERDISCIPLINARY RESEARCH TEAM AND THE DATA SET EXAMINING CORPORAL PUNISHMENT IN THE HOME IN EVERY COUNTRY

In the Fall of 2017, the research team met to define goals for the study. Several law students collected information on the changing legal status of corporal punishment by assessing reports from two existing sources: (1) reports on every state and territory from the Global Initiative to End All Corporal Punishment of Children¹³¹ and (2) country reports from the U.N. Committee on the Rights of the Child.¹³² These two organizations have assembled detailed information

124. See Convention on the Rights of the Child, *supra* note 16.

125. See *id.* art. 19.

126. *Id.*

127. See *id.* art. 37.

128. See, e.g., Abhinaya Ramesh, *UN Convention on Rights of the Child: Inherent Weaknesses*, 36 *ECON. AND POL. WKLY.* 1948, 1948 (2001).

129. See Sorensen et al., *supra* note 6, at 5.

130. See *infra* Parts II–IV.

131. See *Reports on Every State and Territory*, THE GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT, <https://endcorporalpunishment.org/reports-on-every-state-and-territory> [<http://perma.cc/FJ7G-YRFR>] (last visited Mar. 22, 2020).

132. See *Committee on the Rights of the Child*, U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMM'R, <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> [<http://perma.cc/PF6H-T6R8>] (last visited Mar. 22, 2020).

on legal progress on children's rights and corporal punishment law across the globe.¹³³ These sources were examined to determine the status and original date of legal bans on corporal punishment in the home, *inter alia*, in 192 countries from 1970 to 2016.¹³⁴

As a party to the CRC, each country is required to submit an initial report and subsequent periodic reports to the United Nations, detailing a variety of items.¹³⁵ Related to this Article, parties to the CRC are required to take steps to eliminate the corporal punishment of children and report on any progress or challenges.¹³⁶ As such, the research team examined reports submitted to the United Nations, looking specifically for any discussion on societal norms regarding corporal punishment and attempts to modify beliefs and behaviors surrounding corporal punishment. To do so, the research team referred to the United Nations Treaty Body Database.¹³⁷ This database allows the user to search for and view all of the reports submitted by countries to the United Nations relating to their compliance with the CRC.¹³⁸

The research team checked secondary sources to corroborate this information on legal bans on corporal punishment. They confirmed each data point, and examined each missing data point, using deeper research into the historical legal codes of each country.

Researchers additionally reviewed all reports submitted to the United Nations' Committee on the Rights of the Child, searching for terms including "corporal punishment," "discipline," "hit," "slap," "spank," and reviewed all sections that addressed the disciplining of children in the home. Each report was then coded based on the depth of reporting of corporal punishment of children. The designation of "0" was assigned to reports that did not make any mention of corporal punishment in their self-reports. The designation of "1" was assigned to reports that made some mention of corporal punishment, but did not provide detail on the rates of corporal punishment nor steps that have been taken to prevent corporal punishment. Finally, the designation of "2" was assigned to reports that provided detail on the occurrence of corporal punishment and the steps taken

133. *See id.*; *What We Do*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/what-we-do> [<http://perma.cc/QA8J-6QAG>] (last visited Mar. 22, 2020).

134. *See Committee on the Rights of the Child, supra* note 132; *Reports on Every State and Territory, supra* note 131.

135. *See* Convention on the Rights of the Child, *supra* note 16.

136. *See id.*

137. U.N. TREATY BODY DATABASE, U.N. HUMAN RIGHTS OFFICE OF THE HIGH COMM'R, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&TreatyID=10&TreatyID=11&DocTypeID=29&DocTypeCategoryID=4 [<http://perma.cc/YT22-7B89>] (last visited Mar. 22, 2020).

138. Sorensen et al., *supra* note 6.

to prevent corporal punishment. Additionally, other coding and data gathering was conducted and compared to particular aspects of countries within the school setting, which will be published in a separate paper.¹³⁹ The results from the coding are displayed in the graphs here as Appendix A, B and C. The team also read through every existing self-report to the United Nations to learn more about practices in each country. From there, we noted several interesting trends, which are explained below.

III. SOCIAL NORMS THEORY, RE-NORMING AND NORM CASCADES

In order to frame some of the trends and associations we found, we chose to root our paper in economic and psychological theories, such as the social norms approach. Ultimately, the Article sets out and describes the data across countries around the globe, analyzing trends and suggesting theories about those trends.

A. *What Are Norms?*

Norms are the “rules and expectations of behavior within a specific culture.”¹⁴⁰ Looking to the norms within a specific culture can shed light on what behavior is deemed acceptable and customary within that culture.¹⁴¹ If a society wishes to change the frequency of a particular behavior, it would work to change its set of norms to reflect that the behavior is no longer deemed acceptable. “If a society’s set of norms does not deem certain behavior acceptable, that behavior tends to decrease.”¹⁴² The law, and what is permissible behavior under the law, can serve as a normalizing force in society, defining what will and will not be acceptable as the norm.¹⁴³ As researchers Finnemore and Sikkink note: “Norms and normative issues have been central to the study of politics for at least two millennia. Students of politics have struggled with questions not only about the meaning of justice and the good society but also about the influence on human behavior of ideas about justice and good.”¹⁴⁴

139. *Data*, QUALITY OF GOV'T INST., <https://qog.pol.gu.se/data> [http://perma.cc/2UPY-2EJA] (last visited Mar. 22, 2020).

140. Melissa Breger, *Reforming by Re-norming: How the Legal System Has the Potential to Change a Toxic Culture of Domestic Violence*, 44 J. LEGIS. 170, 173 (2017) (internal references omitted).

141. *Id.*

142. *Id.*

143. *Id.*

144. Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT'L ORG. 887, 889 (1998).

Social norms theories build on the idea of influencing human behavior for the good of society.¹⁴⁵ Economic and legal giants like Cass Sunstein, Richard Thaler, Alan Berkowitz, and others, have studied how to decrease negative behavior by changing the social norms around that behavior.¹⁴⁶ When utilizing the social norms theory to decrease negative behavior, we see success in many types of behavior, such as increasing community safety, decreasing drunk driving, and stigmatizing domestic violence.¹⁴⁷ The primary author here has applied these theories in other areas of the law in previous articles and works in progress regarding domestic violence, sports norms and child sex trafficking.¹⁴⁸ In this Article, we apply norms to corporal punishment of children by caretakers and parents in the home.

B. What Are Norm Cascades?

Norm cascades are part of social norms theory and focus upon considerable transformations within social norms.¹⁴⁹ Norm cascades literature utilizes the idea of hitting a “tipping point”¹⁵⁰ when the norms take over.¹⁵¹ The norms focus upon certain behavior and deem it appropriate, which has been shown to promote prosocial behavior.¹⁵² Examples of prosocial behavior have included decreasing alcohol use¹⁵³ or increasing voter turnout.¹⁵⁴ The most recent example of a norm cascade has been the #MeToo movement, which has served to alter societal perception of the minimizing and normalization of sexual assault.¹⁵⁵

145. *See id.*

146. *See, e.g.,* Cass R. Sunstein, *Social Norms and Social Roles*, 96 COLUM. L. REV. 903, 909–10 (1996).

147. *Id.* at 967. For example, the lessons have been particularly successful in combating drunk driving. When there was a marked decrease of drunk driving fatalities, research indicated that it was not due to increased penalties, but rather changes in the social stigma associated with drunk driving. Groups such as Mothers Against Drunk Driving enlisted not only the law as their ally but society as a whole to re-norm behavior in order to reform behavior. By changing societal acceptance of driving while inebriated, through media and education, friends and family members everywhere became the key deterrent by re-norming safe and acceptable behavior.

148. *See* Breger, *supra* note 140, at 171–72; Melissa L. Breger, Margery Holman & Michelle Guerrero, *Re-Norming Sport for Inclusivity: How the Sport Community Has the Potential to Change a Toxic Culture of Harassment and Abuse*, 13 J. CLINICAL SPORT PSYCH. 274 (2019); Melissa L. Breger, *Stemming the Tide: Social Norms and Child Sex Trafficking* (unpublished manuscript) (on file with author).

149. *See* Sunstein, *supra* note 146, at 909.

150. MALCOLM GLADWELL, *TIPPING POINT* 9 (1st ed. 2000) (“The name given to that one dramatic moment in an epidemic when everything can change all at once is the Tipping Point.”).

151. *See* Sunstein, *supra* note 146, at 930.

152. *See id.* at 915–16.

153. *Id.* at 916.

154. *See id.* at 926.

155. *See* Joan. C. Williams et al., *What’s Reasonable Now? Sexual Harassment Law After the Norm Cascade*, 2019 MICH. ST. L. REV. 139, 142 (2019).

Finnemore and Sikkink assert that norm cascades may alter behavior and state that:

A prominent group of legal scholars at the University of Chicago . . . argue that, even within a domestic setting, making successful law and policy requires an understanding of the pervasive influence of social norms of behavior The processes through which these legal scholars claim that norms work domestically—involving [ideas such as] “norm cascades[.]”¹⁵⁶

Professor Sunstein explains that “[n]orm cascades occur when societies are presented with rapid shifts toward new norms.”¹⁵⁷ Finnemore and Sikkink explain how the term is used in their arena:

Norm influence may be understood as a three-stage process [T]he first stage is “norm emergence”; the second stage involves broad norm acceptance, which we term, following Cass Sunstein, a “norm cascade”; and the third stage involves internalization. The first two stages are divided by a threshold or “tipping” point, at which a critical mass of relevant state actors adopt the norm.¹⁵⁸

This three-stage process has been described by Finnemore and Sikkink as the “life cycle” of norms.¹⁵⁹ Agents of social change will call attention to issues or even “create” issues by using language that names, interprets, and dramatizes them. Social movement theorists refer to this reinterpretation or renaming process as ‘framing’.¹⁶⁰

Either before, during, or after the second stage, norms can create “tipping points” when agents of social change “have persuaded a critical mass of states to become norm leaders and adopt new norms.”¹⁶¹ As a result, the second stage is called a “norm cascade” and occurs when “the norm ‘cascades’ [ripples] through the rest of the population.”¹⁶² This cascade can occur even if there is no internal domestic pressure within a state or organization, but rather is an attempt to fall in line with others for a multitude of reasons.¹⁶³ Some proposed reasons include “legitimacy, prominence, and the nature of the norm, esteem, praise, and avoidance of ridicule.”¹⁶⁴

156. Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT'L. ORG. 887, 895 (1998).

157. CASS R. SUNSTEIN, *FREE MARKETS AND SOCIAL JUSTICE* 38 (1999).

158. Finnemore & Sikkink, *supra* note 144, at 895.

159. *Id.*

160. *Id.* at 897.

161. *Id.* at 901.

162. *Id.* at 895.

163. *Id.* at 902.

164. Finnemore & Sikkink, *supra* note 144, at 902–04, 906.

Finnemore and Sikkink talk about this stage as contagious. As they note:

“[C]ontagion” occurs in which international and transnational norm influences become more important than domestic politics for effecting norm change. Contagion, however, is too passive a metaphor; we argue that the primary mechanism for promoting norm cascades is an active process of international socialization intended to induce norm breakers to become norm followers.¹⁶⁵

Lastly, the end of the norm life cycle, that may or may not occur, is internalization, which is defined as when “norms acquire a taken-for-granted quality and are no longer a matter of broad public debate.”¹⁶⁶

In this Article, we are using specifically the theoretical framework of norm cascades to explain how Scandinavian countries and other parts of Europe followed Sweden’s lead over a period of years. We also suggest in our conclusion, that potentially another pertinent norm cascade could be started in other countries, if desired, or even intra-country.

C. *What Is Re-Norming?*

Another somewhat related concept to norm cascades is the idea of “re-norming,” which came about in the context of research into group dynamics and team building.¹⁶⁷ In the group context, re-norming is the phase “where a group transforms, and in doing so ‘it is necessary to understand and review the dysfunctional phases or negative forces . . . so that appropriate corrective actions can be taken.’”¹⁶⁸ Another way to describe re-norming is as a process by which “new ideas are implemented,” and members within the group are about to adjust to these new ideas.¹⁶⁹ Again, when we look at the broader body of literature on social norms research, the theory examines individuals and their perceptions of how others in society behave.¹⁷⁰ As mentioned, the theory is often utilized in the context of reducing negative behavior or at least reducing the normalization

165. *Id.* at 902 (citations omitted).

166. *Id.* at 895.

167. See Breger, *supra* note 140, at 188.

168. *Id.*; see also Tom Edison, *The Team Development Life Cycle: A New Look*, 2008 DEFENSE AT&L 14, 15 (May–June 2008); Tudor Rickards & Susan Moger, *Creative Leadership Processes in Project Team Development: An Alternative to Tuckman’s Stage Model*, 11 BRIT. J. MGMT 273, 281 (2000).

169. See Breger, *supra* note 140, at 188; Matt Grant, *Organisational Change: Thinking It Through* (2014), <https://www.slideshare.net/humansnotrobots/organisational-change-thinking-it-through> [<http://perma.cc/385K-Z8AX>].

170. See Dan M. Kahan, *Gentle Nudges vs. Hard Shoves: Solving the Sticky Norms Problem*, 67 U. CHI. L. REV. 607, 614 (2000).

of such behavior, such as with drunk driving, sexual assault, or narcotics use.¹⁷¹ If individuals have perceptions that others are largely behaving in risky or negative behavior, they are then more likely to engage in such behavior.¹⁷² Ultimately, one seeking to diminish this negative behavior would reset appropriate social norms to frame the behavior in less acceptable terms, thereby decreasing the behavior.¹⁷³

Some research examining re-norming in the context of domestic violence can be instructive here. For example, when the World Bank studied 100 countries and their domestic violence laws, it looked at how the laws affected societal views and acceptance of such violence.¹⁷⁴ It was noted that in 1995, only thirteen of 100 countries had laws outlawing domestic violence.¹⁷⁵ “By 2013, that number had increased to seventy-six out of 100 countries.”¹⁷⁶ A World Bank report found that in countries that had enacted anti-domestic violence legislation, women’s acceptance of spousal abuse became lower than in other countries where domestic violence was still permitted by law.¹⁷⁷ For example, in 2013, after anti-domestic violence legislation was passed in the country of Nigeria, the number of Nigerian women who were victims of the practice that it was acceptable for a husband to beat his wife fell from 44% (in 2003) to 21%.¹⁷⁸ Yet, in some countries like Rwanda, which did not have laws prohibiting intimate partner violence, 96% of Rwandan women believe that the practice of domestic violence can be justified.¹⁷⁹ The attitude is also held by large swaths of women in countries across the religious and cultural spectra, according to the World Health Organization study.¹⁸⁰

Ultimately, in this Article, we studied if this was the case with corporal punishment against children in the home, as well. One thing we note is that the phenomenon of re-norming to decrease toxic norms is most effective if started during early childhood, and is later reinforced with law and education.¹⁸¹ In the next sections, we apply these theoretical frameworks to the countries we studied in our data set.

171. *Id.* at 623–34.

172. Breger, *supra* note 140, at 174.

173. *See id.*

174. *Id.* at 191.

175. *See id.* at 192.

176. *Id.*

177. *See* Nurith Aizenman, *Alarming Number of Women Think Spousal Abuse is Sometimes Ok*, NPR (Mar. 18, 2015, 12:16 PM), <https://www.npr.org/sections/goatsandsoda/2015/03/18/392860281/alarming-number-of-women-think-spousal-abuse-is-sometimes-ok> [<http://perma.cc/HK5V-39E3>].

178. *See id.*

179. *Id.*

180. *Id.*

181. *See* Breger, *supra* note 140, at 189.

IV. WHAT TRENDS DID THE RESEARCH TEAM FIND AND HOW MIGHT THEY FIT INTO THESE THEORETICAL CONSTRUCTS?

In researching the raw data, as well as the self-reporting CRC reports from around the globe, we found various patterns and trends. Prior to 1979, no country had formally banned the use of corporal punishment in the home.¹⁸² As described below, Sweden was the first to do so, followed shortly thereafter by Finland in 1983.¹⁸³ Following ratification of the CRC, the number of countries with home bans against the practice accelerated.¹⁸⁴ More than ten countries had banned corporal punishment by 2000, more than thirty countries by 2010, and more than fifty countries by 2016 (the most recent year in our data).¹⁸⁵

Appendix Figure B illustrates the spatial diffusion of these laws, with actions taken against corporal punishment in the home most common in Western Europe and Central and South America. Several countries in Africa and Eastern Europe have also banned the practice.¹⁸⁶ The analysis finds that countries with English legal origin were least likely to enact bans on corporal punishment, even after the international community had coalesced around children's rights in the CRC (see Appendix Figure B).

The importance of English legal origin in predicting the likelihood of banning corporal punishment in the home mirrors the findings from another study produced by this research team with regard to corporal punishment in the school setting.¹⁸⁷ In our other manuscript, we examined the social, cultural, and political factors predicting country bans against the use of corporal punishment in school settings.¹⁸⁸ As is the case with the home setting, common law countries were much less likely to ban physical discipline in the school setting.¹⁸⁹ The analysis in that study also documents that countries with higher levels of female political empowerment—i.e., more female representation in formal political positions and stronger property rights for women—acted more quickly to ban corporal punishment against students in schools.¹⁹⁰

182. See PAULO SÉRGIO PINHEIRO, WORLD REPORT ON VIOLENCE AGAINST CHILDREN 76 (2006), <https://www.unicef.org/violencestudy/reports.html> [<http://perma.cc/47X3-PHHX>].

183. See *id.*

184. Hollie Nyseth Brehm, *The Global Adoption of National Policies Protecting Children from Violent Discipline in Schools and Homes, 1950–2011*, 52 LAW SOC'Y REV. 206, 206 (2018) (“We find that the ratification of the 1989 United Nations Convention on the Rights of the Child (CRC) is associated with the adoption of policies banning corporal punishment in the home but not in schools.”).

185. Sorensen et al., *supra* note 6, at 6.

186. See PINHEIRO, *supra* note 182, at 76.

187. See Sorensen et al., *supra* note 6, at 24.

188. See *id.* at 2.

189. See *id.* at 22.

190. See *id.* at 17, 22–23.

A. Case Study One: Sweden—Learning Lessons from the First Country to Ban Corporal Punishment of Children; Did It Start a Norm Cascade?

In general terms, Sweden has long been a front-runner in the world on children's rights.¹⁹¹ As pertinent here, Sweden was the first country in the world to abolish child corporal punishment in all settings.¹⁹² Using any physical discipline on children was officially outlawed in 1979.¹⁹³ "The goals of the ban were to: (1) reduce public support for corporal punishment; (2) encourage earlier identification of children at risk for physical abuse; and (3) facilitate earlier, more supportive intervention."¹⁹⁴ Data shows that these objectives had been met, with a decrease in support for corporal punishment since 1965, from 53% to 11%, and thus a decline in the use of corporal punishment.¹⁹⁵

Then, an interesting trend was seen when many of the neighboring European countries near Sweden followed suit.¹⁹⁶ The norms viewing child corporal punishment as an appropriate means of discipline started trending toward outlawing it.¹⁹⁷ In other words, in nearby countries, Sweden's norms arguably started a norm cascade that trended toward a societal shift in favor of new norms over the course

191. *How Sweden is Rewriting National Law to put Children's Rights Front and Centre*, APOLITICAL (Mar. 6, 2018), https://apolitical.co/solution_article/how-sweden-is-rewriting-national-law-to-put-childrens-rights-front-and-centre [<http://perma.cc/8TFA-R7FC>].

192. *See Progress in Africa*, GLOB. INITIATIVE TO END CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/africa> [<http://perma.cc/KF76-SH5X>] (last visited Mar. 22, 2020); *Progress in Europe and Central Asia*, GLOB. INITIATIVE TO END CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/europe-and-central-asia> [<http://perma.cc/6AN7-Y3LY>] (last visited Mar. 22, 2020).

193. PATE & GOULD, *supra* note 85, at 64–65; *Corporal Punishment of Children in Sweden*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/sweden> [<http://perma.cc/VC5R-EET7>] (last updated January 2018).

194. Joan E. Durrant, *Evaluating the Success of Sweden's Corporal Punishment Ban*, 23 CHILD ABUSE & NEGLECT 435, 444 (1999).

195. *See id.* (After the repeal of the Criminal Code defence in Sweden, one-half of the Swedish population believed that corporal punishment was necessary in child-rearing in 1965, by 1981, that decreased by fifty percent, and by 1994, the percentage of the population that supported corporal punishment even in its mildest form had decreased further.); CECELIA MODIG, NEVER VIOLENCE—THIRTY YEARS ON FROM SWEDEN'S ABOLITION OF CORPORAL PUNISHMENT 17 (2009), <https://www.government.se/contentassets/6bfb214c582448b6ace4d32978361577/never-violence---thirty-years-on-from-swedens-abolition-of-corporal-punishment> [<http://perma.cc/4JJV-SF29>] (showing that the positive attitudes toward and use of physical punishment in Sweden has been on a steady decline since the 1960s, with the percentage of positive attitudes in the 2000s being under 10% and the use just above 10%); *see also* PATE & GOULD, *supra* note 85, at 67 (rates of child maltreatment hospitals have declined by one-sixth).

196. *See* PATE & GOULD, *supra* note 85, at 65–66.

197. *See id.*

of several years.¹⁹⁸ While the cascade was not rapid in the true sense of the word, we still see over a period of years the domino effect of countries falling in line with new norms of neighboring countries.¹⁹⁹ For example, we found instructive the dates of nearby European countries outlawing child corporal punishment in the home.²⁰⁰ Once Sweden banned corporal punishment in 1979, corporal punishment was banned in Finland in 1983, followed by Norway in 1987, then it began to reach across Europe as early as 1989 in Austria.²⁰¹ What appeared to be a Scandinavian country cascade forged across Europe and continued for decades.²⁰² Was this initial tipping point an inter-country norm cascade?

We believe it was, even though we acknowledge that legislative changes are rarely a rapid process, the aspect of rapidity to norm cascades may be absent here in the purest sense of the word “rapid”. Assuming *arguendo* that this is indeed a norm cascade, however, we are able to import lessons here about how to use norms to decrease corporal punishment in the home into other countries or intra-country. Professor Sunstein coins yet another term, “norm bandwagon”, to capture the idea of a slower norm cascade, and this could be applied here as well.²⁰³

Moreover, the ban on violence has changed attitudes among the population as a whole.²⁰⁴ For example, in Sweden, rates of corporal

198. See Sunstein, *supra* note 146, at 912.

199. See PATE & GOULD, *supra* note 85, at 65–66.

200. See *id.*

201. *Corporal Punishment of Children in Finland*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/finland> [<http://perma.cc/EF94-B6Z6>] (last updated Oct. 2017); *Corporal Punishment of Children in Norway*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/norway> [<http://perma.cc/8JF8-WJYM>] (last updated June 2019); *Corporal Punishment of Children in Austria*, GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/reports-on-every-state-and-territory/austria> [<http://perma.cc/Y7%M-3NAR>] (last updated Sep. 2017).

202. See *Progress in Europe and Asia*, GLOB. INITIATIVE TO END CORPORAL PUNISHMENT OF CHILDREN, <https://endcorporalpunishment.org/europe-and-central-asia> [<http://perma.cc/D26L-D2Bz>] (last visited Mar. 22, 2020).

203. See Sunstein, *supra* note 146, at 912; see also Cass R. Sunstein, *Social Norms and Social Roles* (Chicago Working Paper in Law and Economics).

204. See Jennifer E. Lansford et al., *Change Over Time in Parents' Beliefs About and Reported Use of Corporal Punishment in Eight Countries With and Without Legal Bans*, 71 CHILD ABUSE & NEGLECT 44, 53 (2018); GLOB. INITIATIVE TO END ALL CORPORAL PUNISHMENT, THE POSITIVE IMPACT OF PROHIBITION OF CORPORAL PUNISHMENT ON CHILDREN'S LIVES: MESSAGES FROM RESEARCH 3 (June 2015), <http://endcorporalpunishment.org/wp-content/uploads/research/Summary-of-research-impact-of-prohibition.pdf> (summarizing research that shows reductions in the approval and use of corporal punishment in some countries which have reformed their laws to prohibit all corporal punishment of children).

punishment against children have fallen to below 3%.²⁰⁵ Similarly in Finland, a study revealed that attitudes towards corporal punishment have become much more negative as opposed to in 1981, when 47% of Finland's adult population believed corporal punishment to be acceptable.²⁰⁶

Did the norm cascade continue outside of Scandinavia and into nearby European countries? For example, in Austria the ban occurred in 1989, possibly the proverbial tipping point. Then, again in Germany, perhaps we see the "tipping point"²⁰⁷ in 2005, when a study commissioned by the Federal Ministry of Justice reached the conclusion that 95% of parents who were aware of the ban on violence considered violence-free upbringing to be a desirable ideal.²⁰⁸ The government became increasingly convinced that by way of physical punishment, parents taught their children incorrect conduct and failed to respect the personality of the child.²⁰⁹ It should be noted that seeing non-physical disciplining as a theoretical ideal does not always translate accordingly in reality.²¹⁰ Norm changing can be a slow process. For instance, in a survey of German parents in 2012, "four out of ten parents admit[ted] to smacking their children on the bottom and ten percent [admitted to slapping] their children across the face."²¹¹ Many of the parents surveyed showed remorse for their actions and blame these on a "knee-jerk reaction".²¹² Germany is continuing to work through the lengthy process of overcoming what was once the norm for their society and child-rearing into a society that recognizes the dangers of corporal punishment on their children.²¹³ Arguably, this attitude is falling more in line with the front-runner, norm-cascader Sweden.²¹⁴

Of course, the Nordic and European countries are not the only countries that have outlawed child physical discipline.²¹⁵ For example, in Chile, corporal and psychological punishment is prohibited, but

205. See Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/SWE/5 at 32.

206. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/FIN/4 at 50.

207. GLADWELL, *supra* note 150.

208. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/DEU/3-4 at 47.

209. *Id.*

210. *Id.*

211. Kay-Alexander Scholz, *Nearly Half of German Parents Hit Their Children*, DEUTSCHE WELLE (Mar. 13, 2012), <https://www.dw.com/en/nearly-half-of-german-parents-hit-their-children/a-15806121> [<https://perma.cc/R3FX-Z9LB>].

212. *Id.*

213. *See id.*

214. *See id.*

215. *See id.*

the parents still have the right to punish their children, as long as it does not adversely affect their health or personal development.²¹⁶ Chile's "National Nursery Schools Board considers decent treatment of children as an essential condition for the provision of a quality initial education," yet they still allow a form of punishment that could in the long run adversely affect the child.²¹⁷ This brings us to our examination of re-norming campaigns, which is discussed next.

B. Case Study Two: Ethiopia—Learning Lessons from One Country Using Social Norm Awareness to Decrease Corporal Punishment in the Home

The country of Ethiopia has made great strides in advocating for children's rights.²¹⁸ For example, as the country reported in 2013:

The Ethiopian Government in collaboration with UNICEF, other UN agencies and civil society organizations is making extensive efforts to create awareness about the CRC and mobilize the public around children's rights . . . Moreover, it largely uses mass media to transmit messages to the community about child rights.²¹⁹

With regard to the specific issue of corporal punishment in the home, Ethiopia has also taken proactive steps toward changing the norms.²²⁰ As of 2013, the Family Code of 2000 has been revised to eliminate the right of parents to administer "light bodily punishments on children."²²¹ After identifying a need for broader education to its citizens, the Ethiopian government has worked to implement widespread education programs.²²² The government cites the public's lack of awareness about alternative forms of child discipline and lack of awareness about the rights of children in Ethiopian homes.²²³ The hope of the government is that with the implementation of preventive measures that challenge the traditional attitudes of people towards children, the use of corporal punishment will decrease.²²⁴

Awareness campaigns take the form of radio and television programs, brochures and pamphlets—all of which focus on encouraging

216. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/CHL/4-5, at 28.

217. *Id.* at 31.

218. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/ETH/4-5 at 16 [hereinafter Ethiopia Report].

219. *Id.*

220. *Id.* at 21.

221. *Id.*

222. *Id.*

223. *Id.*

224. Ethiopia Report, *supra* note 218, at 28.

the use of alternative means of correction for children.²²⁵ In its CRC self-report to the UN, Ethiopia reported that the increased broadcasting of programs about domestic relations from the media are playing a significant role in sparking a dialogue about child discipline.²²⁶ In schools, clubs have been created that are intended to work with school administrators and the public to educate the children, teachers, and the public about the CRC.²²⁷

The Ethiopian government has also taken steps to collaborate with other countries to develop awareness campaigns and increase children's rights.²²⁸ From 2003 to 2008, the Ethiopian Ministry of Justice partnered with the government of Norway to provide human rights training to "judges, prosecutors, police officers and other law enforcement officials of the federal and regional government."²²⁹ Such actions have contributed to significant improvements in children's rights as witnessed in Ethiopia in recent years.²³⁰

C. Other Re-Norming Lessons Learned from the CRC Self-Studies

We see the re-norming approach applied in other countries, particularly where there have been advances in children's rights since ratification of the CRC.²³¹ Thus, we can learn lessons from countries like Ethiopia to explore re-norming and Sweden with regard to norm cascades.

In Sweden, we see successful re-norming public education campaigns, as well.²³² Part of Sweden's success was due to the government's informational dissemination about the dangers of corporal punishment and subsequent decline in societal support for the practice.²³³

In addition to Sweden and Ethiopia, there are other examples of countries trying to raise public awareness about corporal punishment, such as in Brazil.²³⁴ Brazil differs from Sweden and Ethiopia

225. *Id.*

226. *Id.*

227. *Id.*

228. *Id.* at 22.

229. *Id.*

230. Ethiopia Report, *supra* note 218, at 8.

231. *See id.*

232. DOUGLAS ABRAMS, SUSAN V. MANGOLD & SARAH RAMSEY, CHILDREN AND THE LAW: DOCTRINE, POLICY AND PRACTICE 341 n.6 (6th ed. 2017).

233. Joan E. Durrant, *Evaluating the Success of Sweden's Corporal Punishment Ban*, 23 CHILD ABUSE & NEGLECT 435 (1999); J.V. Roberts, *Changing Public Attitudes Towards Corporal Punishment: The Effects of Statutory Reform in Sweden*, 24 CHILD ABUSE & NEGLECT 1027 (2000); K.A. Ziegert, *The Swedish Prohibition of Corporal Punishment: A Preliminary Report*, 45 J. MARRIAGE & THE FAM. 917 (1983).

234. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BRA/2-4 at 30–31.

in the sense that corporal punishment is widely practiced in Brazil, and there is no explicit legislation in existence to prohibit it.²³⁵ Indeed, “moderate punishment” is lawful in the family.²³⁶ Despite the fact that no laws prohibit corporal punishment in the home, organizations and broadcasting networks within the country have created numerous public awareness campaigns in an attempt to change public attitude about the use of physical and humiliating punishments against children and adolescents.²³⁷ This would be an example of a country attempting to use a social norms approach to change what society finds acceptable in terms of corporal punishment that is taking place outside of legislation.²³⁸ As mentioned earlier, some countries, like Japan, are using a re-norming approach in the traditional sense of enacting anti-corporal punishment legislation.²³⁹

Governments in Spain have also dedicated a significant amount of resources to creating programs specifically designed to “[eradicate] practices that are deeply entrenched in [Spanish] society.”²⁴⁰

When we pored through the CRC self-studies, we noted that similar awareness campaigns are seen in countries like Antigua and Barbuda,²⁴¹ Cameroon,²⁴² Costa Rica,²⁴³ Bangladesh,²⁴⁴ Maldives,²⁴⁵ Oman,²⁴⁶ Peru,²⁴⁷ Philippines,²⁴⁸ Laos,²⁴⁹ Sierra Leone,²⁵⁰ and

235. *Id.* at 30.

236. *Id.*

237. *Id.* at 31.

238. *Id.*

239. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/JPN/CO/3 at 1–2.

240. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/ESP/5-6 at 19.

241. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/28/Add.22 at 22, 51.

242. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/CMR/3-5 at 14.

243. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/CRI/4 at 55.

244. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BGD/4 at 26, 44.

245. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/MDV/4-5 at 29.

246. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/OMN/2 at 35.

247. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/PER/4-5 at 23.

248. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/PHL/3-4 at 43–44.

249. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/LAO/CO/2 at 17.

250. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/SLE/2 at 32.

Curacao.²⁵¹ The results of these campaigns vary. Countries, such as Bangladesh, report that instances of corporal punishment are decreasing following the implementation of awareness and advocacy campaigns,²⁵² while other countries report only gradual reductions in the rates of corporal punishment within the home.²⁵³

In Serbia, a 2014 study showed that the use of violent methods as a form of discipline dropped from 67% in 2010 to 43% in 2014, and that 93% of parents believed that corporal punishment should not be used as a disciplinary method against children.²⁵⁴ In Finland, informational campaigns and educational training were implemented to reduce the use of corporal punishment and provide alternative methods to disciplining children.²⁵⁵ The parliamentary Ombudsman for Children in Finland investigated child abuse and violence and found that “regular campaigning with the objective of changing attitudes [would] reduce corporal punishment of children.”²⁵⁶

Some countries specifically focus their awareness campaigns upon harms to children by corporal punishment, such as Denmark.²⁵⁷ Denmark has instituted educational programs to increase knowledge about the harms of corporal punishment.²⁵⁸ Denmark even goes as far as providing treatment at one of the regional rehabilitation centers for torture victims for those children who have been subjected to cruel, inhuman or degrading treatment as corporal punishment.²⁵⁹

When countries re-norm what behavior is acceptable, society can reshape its acceptance and learned behavior of such negative conduct.²⁶⁰ Normalization to certain conduct is easily learned through family dynamics, television, and media, affecting one of the most impressionable classes of individuals, that of children.²⁶¹ As described earlier, children witnessing violence in their own home is one of the strongest indicators that such children will use violence

251. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/NLD/4 at 32.

252. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BGD/4 at 38.

253. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BGD/5 at 30.

254. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/SRB/2-3 at 25.

255. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/FIN/4 at 4.

256. *Id.* at 50.

257. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/DNK/5 at 13.

258. *Id.* at 44.

259. *Id.*

260. Breger, *supra* note 140, at 192.

261. *Id.* at 171.

as adults.²⁶² This learned behavior creates the idea in a child's mind that aggression is appropriate.²⁶³

This too often is true in traditional cultures, such as in China.²⁶⁴ In much of the Chinese culture, that "a dutiful son is made by the rod" is among several commonplace sayings relating to corporal punishment and regular practice amongst parents.²⁶⁵ About 72% of 3,543 teens in Shanghai reported that their parents had beaten them and 60% of elementary aged children in Xi'an reported being verbally abused by their parents.²⁶⁶ Many researchers and scholars link the high rates of corporal punishment amongst Chinese parents to the culture.²⁶⁷ The Chinese culture is very accepting of this form of discipline in schools and the home, because it has been done there for centuries.²⁶⁸

Children who have been physically disciplined by their parents grow up with this learned behavior as the norm, and subsequently may later hit their own children.²⁶⁹ Family violence in general is cyclical and intergenerational.²⁷⁰ For example, a 2011 study of a county in central China, conducted by several United Nations agencies, found that men who witnessed their mothers being beaten, when they were children, were three times or more likely to beat their own children, when compared to men who had not witnessed such violence.²⁷¹

The phenomenon of re-norming is the start to decreasing these toxic norms, which is most effective if started during early childhood and later reinforced with law and education.²⁷² When thinking about re-norming, it is helpful to take into account the actual current norms in a particular country. As we have discussed, the use and prevalence of corporal punishment varies drastically on the global level.²⁷³ Countries in which other forms of violence are customary, such as civil wars, see higher levels of corporal punishment being used against children.²⁷⁴

262. *Id.* at 180.

263. *Id.* at 181.

264. Didi Kristen Tatlow, *China's Harsh Child Discipline, Through the Lens of Domestic Violence*, N.Y. TIMES (Mar. 9, 2016), <https://www.nytimes.com/2016/03/10/world/asia/china-corporal-punishment-education-discipline.html> [http://perma.cc/58F3-N9TR].

265. *Id.*

266. *Id.*

267. *Id.*

268. *Id.*

269. *Id.*

270. Tatlow, *supra* note 264.

271. *Id.* ("52 percent of men said that they had used violence against a partner, while 47 percent reported that they had beaten their children.")

272. Breger, *supra* note 140, at 170.

273. *Id.* at 193.

274. Sorensen et al., *supra* note 6; see HANDBOOK OF PARENTING 564 (Marc H. Bornstein

Some studies have shown that parents are more likely to support the use of corporal punishment if they believe that it is approved by professionals, other parents, family and friends.²⁷⁵ For example, some Caribbean countries support corporal punishment stemming from a general acceptance by society that it is an effective form of discipline.²⁷⁶

In Laos, the Law on Preventing and Combating Violence against Women and Children provides for awareness-raising for preventing and combating violence against children to change behaviors and eliminate cultural and customary beliefs and attitudes.²⁷⁷ The goal of the awareness campaigns in Laos is to change societal views regarding the acceptance of corporal punishment.²⁷⁸ The strategy employed by the actors of the campaign is to create a “long-term social and behavior[ial] change . . . [that] will be designed to trigger a shift in the overall social norms related to violence against children.”²⁷⁹ In countries such as Panama and Jamaica, the government or private organizations create and distribute literature intended to educate the public about alternative forms of discipline.²⁸⁰

Other countries, such as Jordan, implement awareness-raising campaigns that are limited to combating corporal punishment in educational institutions.²⁸¹ Similar awareness campaigns can be

ed. 2019); (“A study examining cultural beliefs about the acceptability of physical discipline across 24 countries found that approximately 29% of developing countries perceive physical punishment as necessary for childrearing[.]”); Diana Baumrind, *Necessary Distinctions*, 8 PSYCH. INQUIRY 176, 178 (1997) (explaining that physical punishment is common in African American homes than European American homes in the United States).

275. See, e.g., Catherine A. Taylor et al., *Parents’ Primary Professional Sources of Parenting Advice Moderate Predictors of Parental Attitudes toward Corporal Punishment*, 26 J. OF CHILD & FAM. STUD. 652–63 (2016) (finding that the main predictors of attitudes toward corporal punishment include perceived approval of corporal punishment by professionals, family, and friends and the perceived norms of family and friends regarding corporal punishment).

276. Corin Bailey et al., *Corporal Punishment in the Caribbean: Attitudes and Practices*, 63 SOC. & ECON. STUD. 207, 210–13 (2013) (explaining the historic widespread support of corporal punishment in the Caribbean); Cindy Miller-Perrin & Robin Perrin, *Physical Punishment of Children by US Parents: Moving Beyond Debate to Promote Children’s Health and Well-Being*, 31 PSICOLOGICA: REFLEXAO E CRITICA 16 (2018) (“In many of the nations who are party to the United Nations Convention on the Rights of the Child, physical punishment of children remains common . . .”).

277. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/LAO/CO/2 at 17.

278. *Id.*

279. *Id.*

280. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/PAN/5-6 at 21; Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/JAM/3-4 at 29.

281. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/JOR/4-5 at 23.

found in Afghanistan,²⁸² Bahrain,²⁸³ Bangladesh,²⁸⁴ the Democratic Republic of Congo,²⁸⁵ Equatorial Guinea,²⁸⁶ Honduras,²⁸⁷ Mongolia,²⁸⁸ Pakistan,²⁸⁹ Tuvalu,²⁹⁰ and Yemen.²⁹¹ Again, the results of these programs vary. Countries such as Bangladesh and Mongolia have seen only gradual improvement in the rates of corporal punishment.²⁹²

In some countries, corporal punishment of children results in a very harsh punishment for parents. Parents in Kazakhstan can be stripped of their parental rights for failing to fulfill their parental duties and subjecting their children to corporal punishment.²⁹³ Kazakhstan even inspects homes in which children reside every six months to ensure conditions are safe and to prevent proactively corporal punishment.²⁹⁴ Future research could explore whether these punitive norms actually re-norm parental behavior.

The concept of re-norming campaigns is not uniformly successful, as parental physical discipline can be hard to eradicate entirely. In contrast to the countries mentioned above, in Honduras, for example, corporal punishment remains common despite explicit prohibitions.²⁹⁵ In Equatorial Guinea, the use of corporal punishment in schools has been eliminated, but it is still a societal norm to strike children as a necessary and effective means of correction in the home.²⁹⁶ That

282. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/AFG/1 at 57.

283. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BHR/2-3 at 39.

284. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BGD/5 at 26.

285. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/COD/3-5 at 13–14.

286. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/11/Add.26 at 18.

287. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/HND/4-5 at 62.

288. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/MNG/5 at 16.

289. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/PAK/5 at 22.

290. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/TUV/2 at 20.

291. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/YEM/4 at 17.

292. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/BGD/5 at 30; Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/MNG/5 at 23.

293. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/KAZ/4 at 27.

294. *Id.*

295. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/HND/4-5 at 61.

296. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/11/Add.26 at 18.

said, awareness of the ill-treatment of children continues to be raised to inform parents of the dangers it poses to a child's development.²⁹⁷ All kinds of physical and psychological punishments of children, even for disciplinary purposes, has been prohibited in Afghanistan.²⁹⁸ Although the prohibition is in place, corporal punishment is perceived as a cultural aspect of a child's upbringing.²⁹⁹ The educational campaigns that have been designed by the government or private groups to raise awareness regarding prohibitions on corporal punishment have been met with limited success.³⁰⁰

Essentially, the societal beliefs held in the countries where awareness campaigns are being implemented have at their core that physical punishment is part of parenting.³⁰¹ Through re-norming campaigns, governments need to show parents that physical punishment is not a necessary nor proper way to raise a child. The awareness campaign's focus should be to educate the public about alternative forms of discipline that respect the integrity of the child. But in some countries, educating the public about less harmful means of discipline is not enough to counter the long history of social customs of violence towards children.³⁰² This is where re-norming on multiple levels may be an option—governmental, private, NGO, grassroots—although it is also wherein some of the limitations lie when re-norming without accompaniment by law, enforcement, and sanctions.

CONCLUSION AND CALL FOR FURTHER RESEARCH

After examining quantitative and qualitative data, in other words both the objective data and the more subjective CRC self-reports

297. *Id.*

298. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/AFG/2-5 at 16.

299. *Id.*

300. *See id.*

301. *See supra* Section IV.C.

302. *See, e.g.,* Corin Bailey et al., *Corporal Punishment in the Caribbean: Attitudes and Practices*, 63 SOC. & ECON. STUD. 207, 211 (2014) ("Today, despite increasing awareness of its negative effects, and despite the fact that all independent English speaking Caribbean countries are signatories to the Convention of the Rights of the Child, corporal punishment in schools continues to be permitted, with some regulations and guidelines."); UNICEF, PREVENTING AND RESPONDING TO VIOLENCE AGAINST CHILDREN AND ADOLESCENTS (2017), https://www.unicef.org/protection/files/UNICEF_VAC_ToC_WEB_271117.pdf ("In some cases, awareness raising, and advocacy may be needed to mobilize the general public . . . Finally, as mentioned earlier, awareness campaigns increase awareness among the general public about the rights of children and the legal and policy frameworks designed to protect them. . . . Overcoming this challenge often requires addressing social norms and lack of awareness that may pose barriers to disclosure and help-seeking."); Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/DEU/3-4 at 47.

across the globe about corporal punishment in homes, we noted interesting trends.

Future research questions would include whether social norms theory and the norms cascade phenomenon could be used intentionally and replicated within and across countries in order to decrease corporal punishment as an acceptable form of discipline for children in the home. In the same way that the Nordic Scandinavian countries arguably followed a norm cascade, further research could demonstrate if a country, especially one as variant as the United States, could work toward abolishing corporal punishment entirely. This transition should become ever more pressing in light of the American Pediatric Association pronouncement that physical discipline is damaging to children—the United States should borrow lessons from around the globe and have its own norm cascades across the fifty states and re-norm what is acceptable in American society.³⁰³ Other countries could follow suit, leading an evolution of comprehensive re-norming. At the very least, countries that are interested in decreasing corporal punishment can borrow lessons from countries like Ethiopia and others mentioned to start campaigns on a governmental level, a legislative level, or even on a grassroots level.³⁰⁴ In the meantime, the theoretical construct of social norms theories and re-norming can provide a useful framework to think about decreasing negative or maladaptive behavior.

Research on implementation and enforcement of the law awaits. For now, the groundwork can be paved for increasing awareness in various communities, that then may translate to the changing of norms and acceptance of child corporal punishment as a proper form of discipline. For countries who share our normative argument against child corporal punishment in the home, the theories of social norms and re-norming can be utilized to create norm cascades and tipping points on a global level inter-country or intra-country, as needed. Ultimately, a much more humane environment for our world's children awaits.

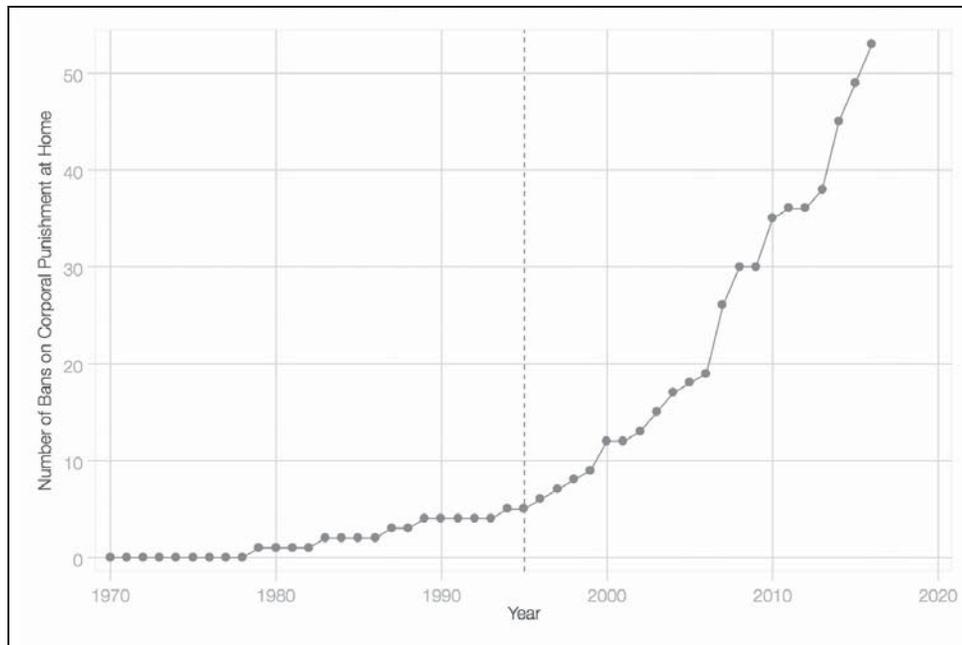
303. See Miller-Perrin & Perrin, *supra* note 276 (explaining that support for physical punishment of children is still prevalent in the United States because of historical legal concepts granting parental rights and freedoms).

304. Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, U.N. Doc. CRC/C/ETH/4-5 at 16.

APPENDIX A, B AND C (FIGURES 1, 2, 3)

GRAPHS: COUNTRY BANS OF CORPORAL PUNISHMENT IN THE HOME

FIGURE 1. NUMBER OF COUNTRIES WITH LEGAL BANS ON CORPORAL PUNISHMENT AT HOME 1970–2016



Note: The vertical line at 1995 marks the passing of the UN Convention on the Rights of the Child.

FIGURE 2

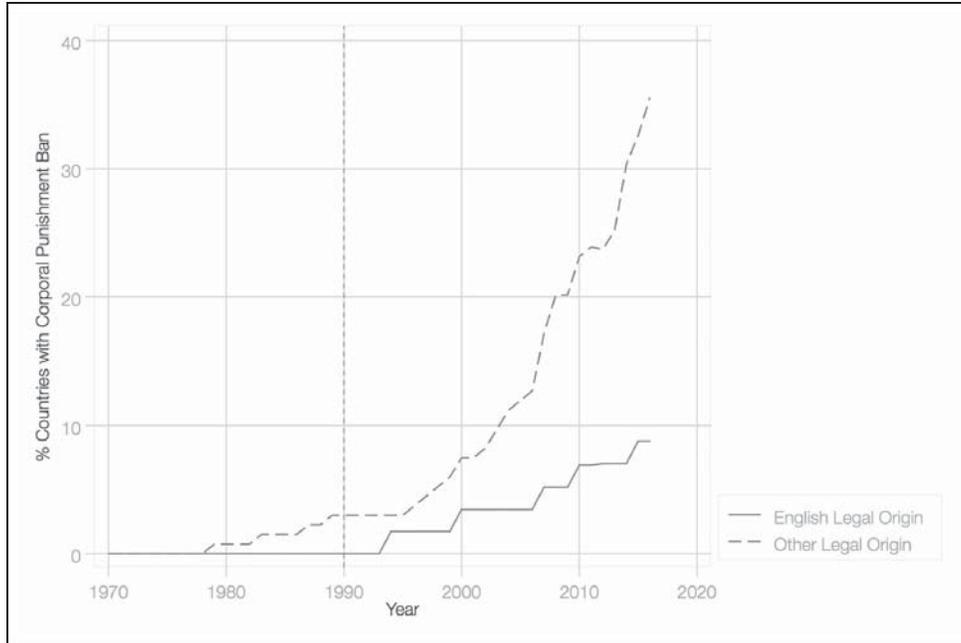


FIGURE 3. STATUS OF LEGALITY OF CORPORAL PUNISHMENT AT HOME BY COUNTRY IN 2016

