

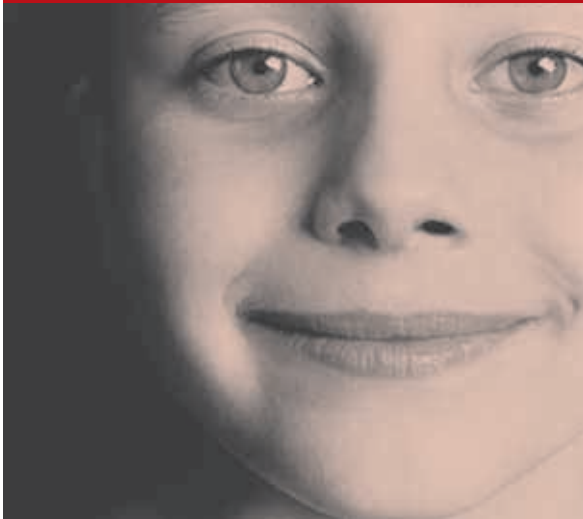


Bundesministerium
für Familie, Senioren, Frauen
und Jugend



Bundesministerium
der Justiz

Violence in Upbringing.



An assessment after the introduction
of the right to a non-violent upbringing

2003



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Vorwort

Die Bekämpfung der Gewalt, insbesondere auch im sozialen Nahbereich, ist eines der zentralen Anliegen der Bundesregierung. Zu den wichtigsten gesetzgeberischen Maßnahmen, die in den letzten Jahren zur Verwirklichung dieses Anliegens getroffen wurden, gehört das im November 2000 in Kraft getretene Gesetz zur Ächtung der Gewalt in der Erziehung. Mit diesem Gesetz wurde ein „Recht des Kindes auf gewaltfreie Erziehung“ im Bürgerlichen Gesetzbuch verankert. Körperliche Bestrafungen, seelische Verletzungen und andere entwürdigende Erziehungsmaßnahmen wurden für unzulässig erklärt.



Renate Schmidt



Brigitte Zypries

Ziel des Gesetzes ist es, die Anwendung von Gewalt als Erziehungsmittel zurückzudrängen, ohne die Eltern zu kriminalisieren. Das Gesetz zielt daher in erster Linie auf einen Bewusstseinswandel ab. Es soll an die Eltern appelliert und das Bewusstsein dafür geschärft werden, dass Gewalt kein geeignetes Erziehungsmittel ist. Gleichzeitig soll mit dem Gesetz erreicht werden, dass sich Eltern vermehrt und frühzeitig an Familienbildungs- und -beratungseinrichtungen wenden. Es ist daher auch gesetzlich klargestellt worden, dass es zu den Aufgaben der Familien-, Kinder- und Jugendhilfe gehört, den Eltern Wege aufzuzeigen, wie Konfliktsituationen in der Familie gewaltfrei gelöst werden können.

Die Gesetzesänderung wurde von September 2000 bis Ende 2001 durch eine bundesweite Kampagne „Mehr Respekt vor Kindern“ begleitet. Diese hatte zum Ziel, die Neuregelung bekannt zu machen, die Öffentlichkeit für die schädlichen Folgen der Gewalt zu sensibilisieren und in der Bevölkerung einen Bewusstseinswandel hin zu dem neuen Leitbild einer gewaltfreien, von Respekt und Fürsorge für das Kind geprägten Erziehung zu fördern. Insbesondere ging es darum, die Eltern bei der Wahrnehmung ihrer Erziehungsverantwortung zu unterstützen und ihnen zu zeigen, dass es auch in schwierigen Erziehungssituationen Alternativen zur körperlichen Bestrafung gibt.

Den Schwerpunkt der Kampagne, die durch Presse, Rundfunk und Fernsehen sowie zahlreiche Praxisprojekte flankiert wurde, bildeten besonders bürgernahe und öffentlichkeitswirksame Vor-Ort-Aktionen, die darauf hinzielten, die Menschen unmittelbar an ihrem Wohnort anzusprechen und ihnen das neue Erziehungsleitbild zu vermitteln.

In mehr als 35 Städten und Landkreisen im gesamten Bundesgebiet wurden dabei rund 500 Einzelveranstaltungen, Seminare, Vorträge, Podiumsdiskussionen, aber auch Aktionen wie Straßenfeste und Theateraufführungen ausgeführt, bei denen es darum ging, Eltern und alle am Erziehungsgeschehen beteiligten lokalen Organisationen und Institutionen zu einem gemeinsamen Dialog über Erziehungsfragen zu motivieren und so den vom Gesetz intendierten Bewusstseinswandel und eine Änderung des Erziehungsverhaltens hin zur Gewaltfreiheit zu fördern.

Um die Auswirkungen des neuen Gesetzes und der begleitenden Kampagne untersuchen zu lassen, hat die Bundesregierung eine umfangreiche Studie in Auftrag gegeben. Unter der Leitung von Prof. Kai-D. Bussmann, Universität Halle-Wittenberg, wurden eine Eltern-, eine Jugend- und eine Multiplikatorenbefragung durchgeführt. Die vorliegende Broschüre gibt einen Überblick über die wesentlichen Ergebnisse der drei Befragungen. Sie soll Mitarbeitern und Mitarbeiterinnen von Beratungs- und Hilfeeinrichtungen ebenso wie dem Lehrpersonal von Schulen und interessierten Bürgern ermöglichen, sich in kompakter Form über die erzieherische Praxis und die Einstellung der Beteiligten zur Anwendung von Gewalt in der Erziehung nach Einführung des neuen Gesetzes zu informieren. Wir verbinden dies mit der Hoffnung, dass das Recht des Kindes auf gewaltfreie Erziehung in der Diskussion bleibt und zunehmend akzeptiert und auch gelebt wird.

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1. The new right to a non-violent upbringing

In the Federal Republic of Germany, a whole series of legal initiatives have been taken, since the seventies, to prohibit the use of violence in bringing up children. Since this has long been a demand of recognized experts in the field and Sweden's experience after introducing an absolute prohibition of corporal punishment in 1979 has been positive, the Federal Government has been encouraged to take this step.

The terms “corporal and psychological maltreatment”, which were used in the prohibition introduced in 1998, were unclear since in everyday speech these would only include serious assaults. In particular, those parents, whose approach to upbringing had the character of maltreatment and who therefore tended to use an especially narrow definition of maltreatment, could not be reached by a simple prohibition of maltreatment. For this reason, a revised version of the statutory regulation, which prohibited the use of any form of violence and, in particular, corporal punishment in childrearing, was passed in November 2000. The new German prohibition of violence is thus connected with the Swedish law reform, which was so successful because it coupled a clear NO to corporal punishment with a broad and comprehensive program of informing the public about the negative consequences of violence when raising a child.

The Act went beyond a simple prohibition of corporal and psychological maltreatment to include all forms of violence in bringing up children: “Children have a right to a non-violent upbringing.” (§ 1631 paragraph 2 sentence 1 of the German Civil Code (amended)). This right covers not only corporal, but also psychological forms of violence such as withdrawal of affection or publicly embarrassing the child. Every form of sanction, which could injure

the child's self-respect and sense of shame, represents an inadmissible form of violence.

To prevent misunderstandings, in the new law the word “violence” is clarified in more concrete terms in a second sentence: “Corporal punishment, psychological injuries and other degrading measures are impermissible.” (§ 1631 paragraph 2 sentence 2 of the German Civil Code (amended)). Parents should still be permitted to physically intervene to protect their child from an immediate danger. Thus, for example, parents who hold children by the arm, when they are in danger of being injured in traffic, by falling through an open window or in a playground, are not guilty of a violent act pursuant to the new Act (§ 1631 of the German Civil Code). However, every form of violence, which is intended as a punishment, is now absolutely prohibited.

While it is true that the new right to a non-violent upbringing does not provide children with a private law claim for a restraining order, nevertheless the new Act does provide for legal consequences: from now on, every form of corporal punishment and psychological injury is impermissible. In the event of an offence, parents can no longer refer to their general parental right to raise a child. Thus, anybody may legitimately discuss serious encroachments with the parents and children involved or even counselling institutions. However, the Act does not make it a citizen's duty to report violations to authorities such as the youth welfare office or the police.

As far as family law is concerned, the new content of the regulation will have to be specifically taken into account in assessing whether there is a danger to the best interests of a child pursuant to § 1666, § 1666a of the German Civil Code. If the welfare of the child is endangered, the Family Law Court (Familiengericht) shall be obliged to take the measures necessary to eliminate the danger (instructions, orders or prohibitions or, if necessary, withdrawal of the parent's right to custody of the child). Furthermore, as a related measure, the Act guarantees the provision of assistance for parents

in handling conflict situations without resorting to violence: "These [services aiding families] should also show ways to resolve conflicts in the family in a non-violent manner." (see § 16 of the Eighth Book of the Code of Social Law (Sozialgesetzbuch), Children and Youth Welfare Act (Kinder- und Jugendhilfegesetz)).

Pursuant to the new prohibition, the corporal effect must exceed a certain degree of intensity before it may have criminal law consequences, but this level of intensity is now reached when a child is slapped. As a consequence, a parent may now be punished for causing bodily injury pursuant to § 223 of the Criminal Code (Strafgesetzbuch), if he or she exceeds this threshold of violence in the course of his or her childrearing. For parents, this

means that they are subject to the same limits in their relationship to their children as they are in society in general.

Although any one may bring charges against a parent who is violent, neither the office-bearers in youth welfare offices and offices for social services nor the employees in institutions providing counseling or aid (regardless of whether they are church-related or not) are obliged to report such transgressions. Furthermore, the public prosecutor's office will still only press criminal charges in serious cases and can, in particular, waive these when the family accepts social education, family-oriented therapy or other supporting measures. Therapy is preferred to prosecution especially in the less serious cases. ■

2. The research accompanying the Act

The Federal Ministry of Justice (Bundesministerium der Justiz) and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend) initiated a comprehensive research program to study the reception and initial consequences of the Act governing the right to a non-violent upbringing, which has been in force since November 2000. The results of this research were then compared to earlier studies.

- In October 2001, nationwide, representative interviews were held with 3,000 parents of children less than 18 years of age and, in March of the following year, 2,000 youths ranging in age from 12 to 18 were also interviewed. The results are comparable with those of questionnaires involving parents in 1994 and 1996 as well as a youth study conducted in 1992.
- Nationwide and representative surveys (in writing) of 1,074 governmental and nongovernmental institutions providing counselling or aid were conducted in the autumn of 2001 (expert study). Additionally, 30 representatives of relevant institutions were interviewed in depth. ■

3. “Well, it didn’t hurt us?”

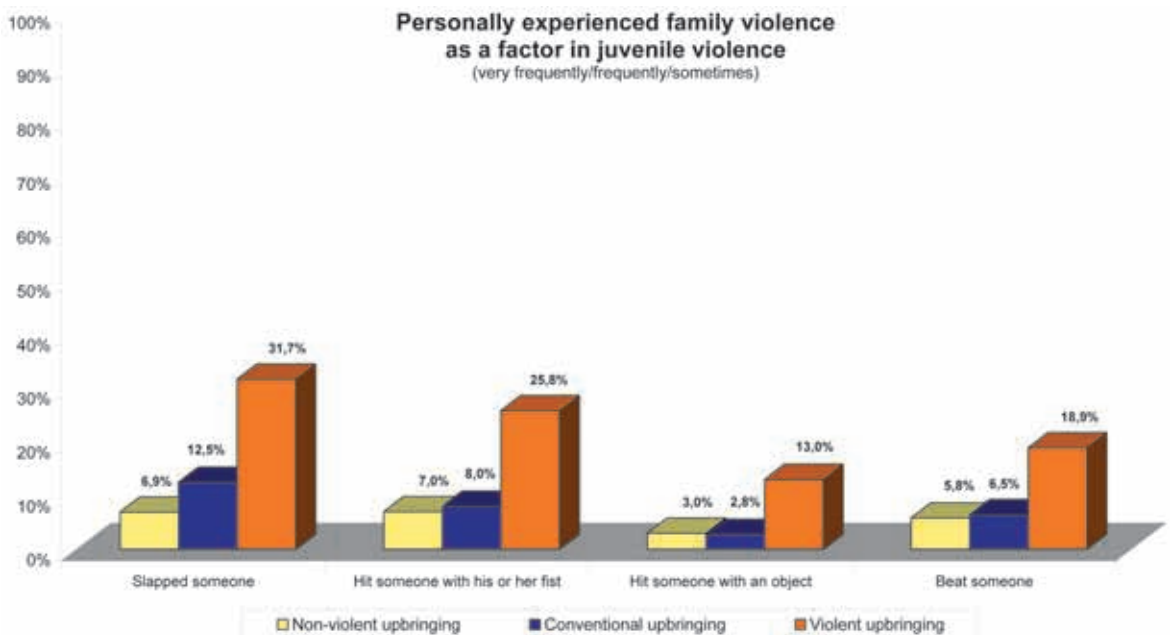
From international studies, we have long known of the considerable harm caused by violence in childrearing. For the children and youths affected, not only severe corporal punishment, but also the more frequent lighter punishments such as a slap across the face increase the risks of:

- an escalation in violence in childrearing: originally light corporal punishments can quickly lead to serious maltreatment,
- serious psycho-social damage such as anxiety, isolation, drug addiction,
- anti-social behaviour such as aggression or lack of empathy,
- a cycle of violence: parents hit their children, because they were themselves beaten (learning from the model of their own parents),

- more frequent crimes committed by children and youths, in particular the tendency to commit acts of violence.

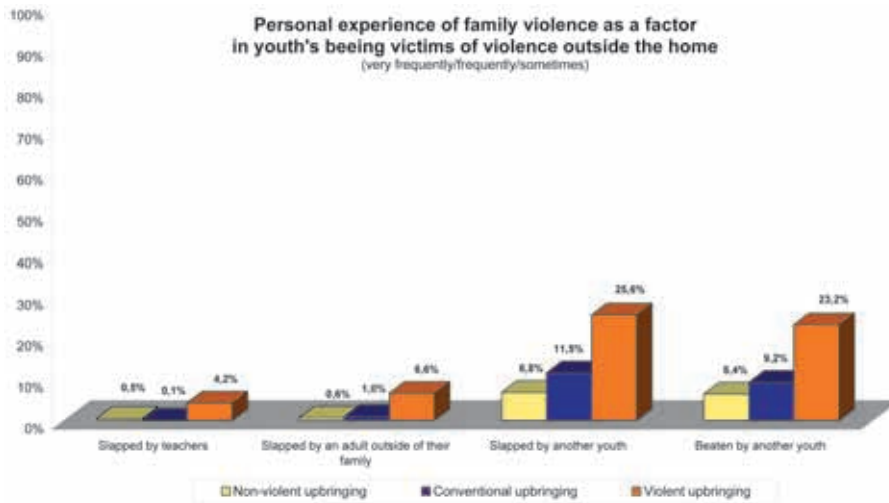
As a category, crimes of violence committed by youths are thus only one of the many consequences of violence in the family on the development of young people, which just happens to be especially conspicuous. The strong link between crimes of violence committed by youths and violence in their upbringing was again confirmed in the associated studies. In the following graph, one can see that a significantly higher percentage of violent youths have experienced violence themselves at home – in part up to 32%.

From the graph, it can be seen that every third youth raised in a violent family reported at least minor violence on his own part and every fourth or fifth youth reported serious transgressions such as having “hit someone with his or her fists” or „beaten someone”.



Furthermore, youths who commit crimes of violence are at the same time frequently victims of violence. This can be explained by their own violence, aggressive behaviour, inability to deal with conflicts and their correspondingly provocative temperament. Youths are particularly often the

victims of other youths. The group of youths from violent families suffers from this more than twice as often as the other groups of youths. At very low levels this connection can even be seen in relationships with teachers and other adults who are extremely rarely violent.



The consequences for children from families which practice violent childrearing are thus fatal in every respect: Besides their – in any case higher developmental risks – these children are not only more frequently perpetrators of violence, but even outside of the family also the victims of violence – one could say they are victimized twice. In comparison to others, they frequently live in an environment in

which it is normal for violence to be used to resolve conflicts.

As a consequence, effective prevention of violence in society must begin with the childrearing habits of the parents – prevention may not stop at the doorstep of the family. Non-violent childrearing is one of the most important prerequisites for achieving a general reduction in violence in society. ■

4. What is day-to-day childrearing like today?

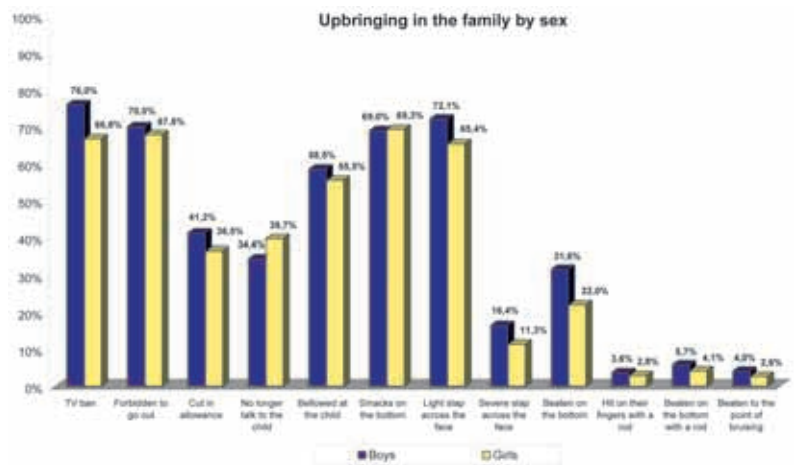
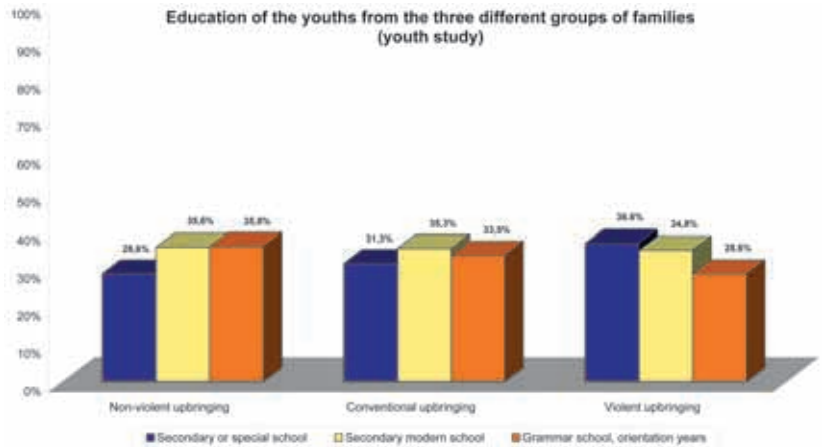
We can group the parents together on the basis of the differences in their use of violence in child raising:

- **Childrearing without sanctions or corporal punishment:** This group of parents accounts for roughly 28% of all parents (with children less than 18 years of age); they very rarely resort to disciplinary sanctions and as far as possible never resort to corporal punishment.

- **Conventional childrearing:** 54% of the parents frequently use some minor corporal punishment in addition to non-violent sanctions. However, they nearly never resort to serious corporal punishment (such as beatings or spankings).
- **Violent childrearing:** About 17% of the parents belong to this "violence-prone" group. These parents frequently resort to sanctions, psychological forms of punishment and, in particular, serious corporal punishment (such as beatings or spankings).

Violence in childrearing is found to more or less the same degree in all social classes:

The societal structure of the parental groups in largest part reflects society as a whole. It is true that the students at secondary school (Hauptschule) are hit by their parents somewhat more often and grammar school students (Gymnasiasten) are hit somewhat less. Furthermore, parents who have only completed secondary modern or attended a special school do tend to beat their children more often and more severely. Nevertheless, these differences are not so serious that one could speak of a typical style of childrearing in the home. More accurately, the studies – in particular the comparison with studies made in the nineties – show that there is less and less correlation between a specific level of education and the use of violence in childrearing. Even serious forms can certainly not be considered as typical for parents who completed secondary modern or special schools. In the meantime, the ideal of non-violent childrearing has infected every part of the population regardless of the education or social status of the individuals.



Violence in childrearing is not related to the individual’s sex, rather to his or her role in the family:

As far as the role of the parent’s sex in determining the frequency of violence practiced in childrearing, our study was in keeping with the majority of previous studies and showed that mothers hit their children somewhat more often, because they are subjected to most of the burden of childrearing.

However, the differences are slight (light slap: mother 60.6%; father 56.1%) and decrease for more serious forms of violence. Since women are generally critical of the use of violence in childrearing and, as we know from other studies, the mother largely determines form of childrearing practiced in the home, it is to be expected that there will be even less violence used in childrearing in the future.

Boys are subjected to more violence in their upbringing:

With regard to the question of whether boys are hit more often than girls, it has been determined that young boys and youths are indeed subjected to more disciplinary punishment, not only more corporal punishment but also more frequent psychological punishment and prohibitions. While a smack on the bottom is an experience that both sexes share more or less equally, differences already appear with the frequency of (light) slaps across the face (boys 72% to 65% for girls). The sex-specific difference is even more noticeable in the case of more serious forms of punishment such as receiving a “hard slap across the face” or being “beaten on the bottom”. Thus girls receive serious corporal punishment substantially less often than boys. ■

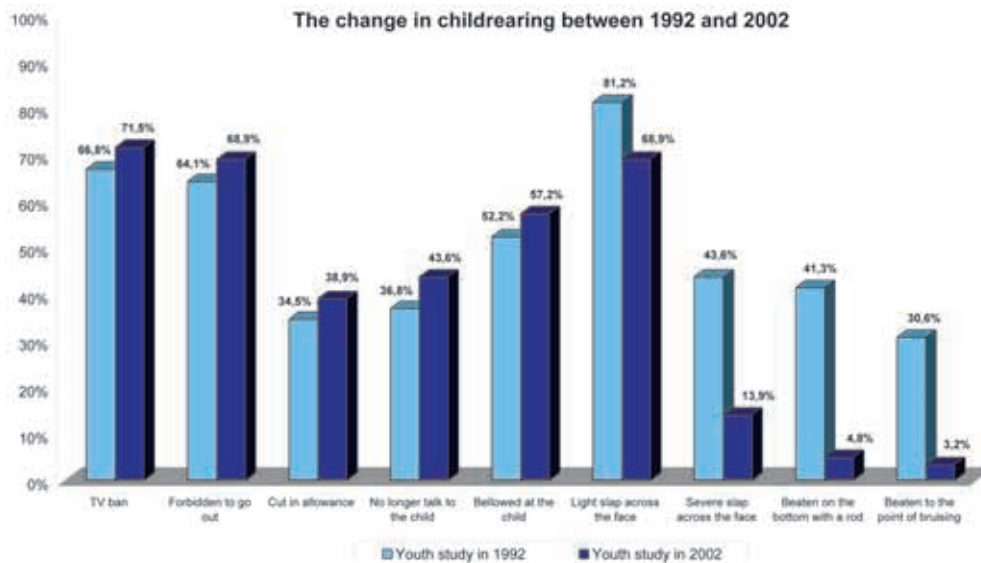
5. Change in childrearing behaviour?

In the reports made by the surveyed parents and children (from 12 years of age) about themselves, which were to a large degree in agreement, one can recognize a very gratifying development: The childrearing practiced in German families was never as non-violent as it is today.

If one accepts the statements made by the parents (no graph), there has been a substantial decrease in both psychological sanctions (such as bellowing at a child or giving him or her “the silent treatment”) and lighter corporal punishment. Serious corporal punishment has also become more rare. While in 1996 a third of the parents stated that they had

beaten their children’s bottoms (33.2%), just six years later, this statement was only made by roughly a fourth of the parents (26.4%). On the other hand, there were more frequently statements made by the parents that they suspected that children were maltreated in other families (18%). This slight increase is considered to reflect the increased sensitivity of the population to violence in the rearing of children.

If the youth studies made in 1992 are considered, there is an even greater decrease. Today only a small minority of the younger generation experiences serious corporal punishment. In 2002 only a total of 3% of the children reported that they had been thrashed, while in 1992 it was still 30%. The decreasing use of violent forms of punishment has not been compensated by an increase in other sanctions (psychological forms of punishment or prohibitions). To the degree that there is a slight increase noted, this is most likely the result of the increased sensitivity of children and youths to every form of punishment.

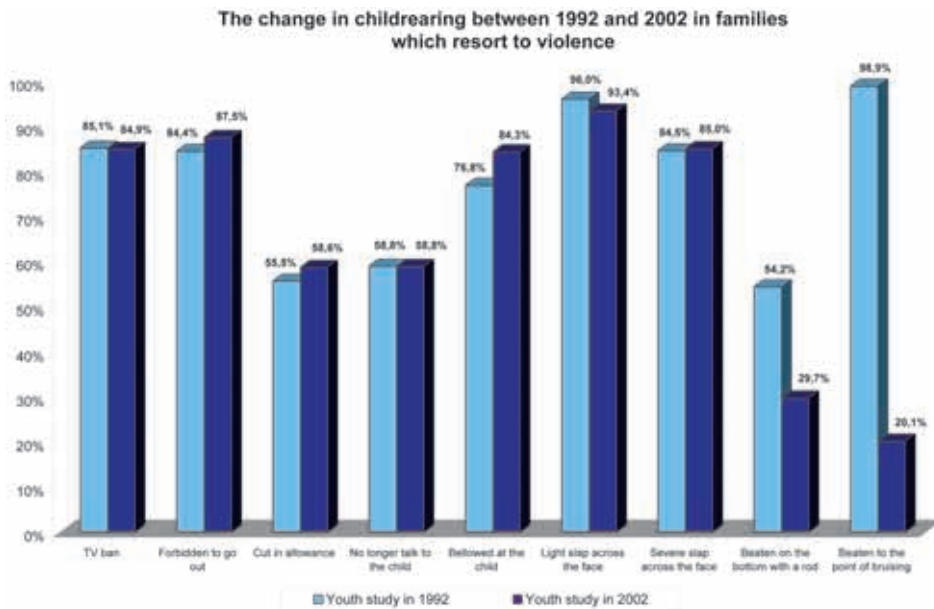


In comparison: In 1994 in Sweden, only 50% of the children reported receiving (light) corporal punishment, only 3% had been slapped hard across the face and just 1% had been hit with an object. It is thus clear that we have still not reached the level of non-violence in childrearing that is common in Swedish families. There is a continuing need to work on educating the public.

Nonetheless, the greatly improved situation in German families can be clearly seen in the extremely positive changes within the group of families still resorting to corporal punishment in their childrearing. While it is true that this “violence-prone” group of families is not substantially smaller than in the previous studies, even in these families however the more serious forms of corporal punishment are used less frequently. ■

The general change in the values of the population that can be seen over the last several generations explains the substantial decrease of violence within the family within a period of roughly six years. The main reasons for this shift in values can be found in the population's increased level of education and the rejection of violence as a means of resolving conflicts, which has been increasing for decades

within society as a whole. This change in public awareness has been furthered by the public and professional discourse (which has been going on for years) on non-violent childrearing and the abolition of what was known as the parent's right to use corporal punishment. The new prohibition of violence in childrearing is in accord with this shift in values and supports the further development. ■

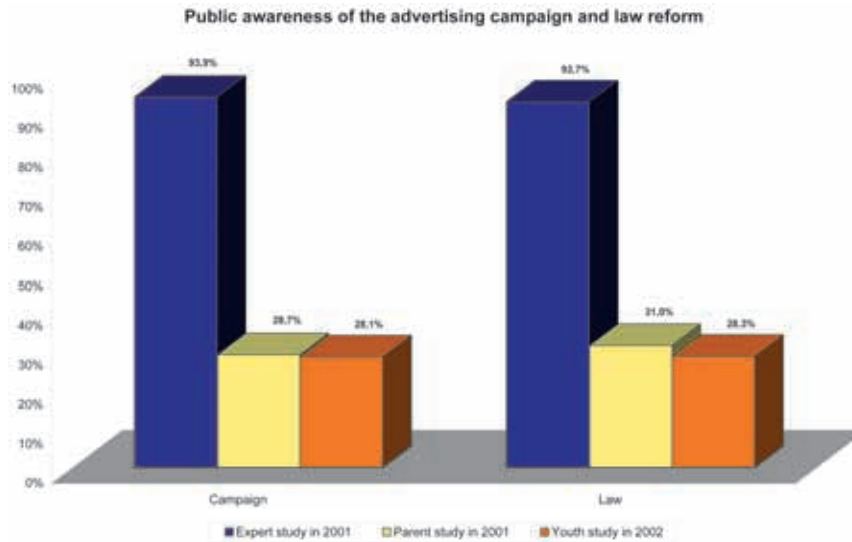


6. Who knows about the new statutory role model?

A new law must be more than just another “law in the books”, therefore every effort must be made to ensure that as many as possible of the citizens affected are informed about it. For this reason, the Federal Government ran a nationwide multimedia advertising campaign with the motto “More respect for children” from 2000 to 2002. This campaign was supported by 36 regional theme events in locations ranging from Flensburg to Saarlouis. Finally, nearly two-thirds of the institutions, which provide counselling and aid throughout Germany, participated in the campaign with events of their own such as information events, workshops and poster campaigns within a year.

According to the survey results, about 30% of the parents and nearly as many children and youths were informed about the new statutory role model within a year. This is a gratifying result, even if there are still a great number of parents, children and youths who must be informed before the new right to a non-violent upbringing can fully serve its function of providing orientation.

It must be considered that the survey was conducted just one year after the new Act prohibiting violence in childrearing was passed and that informal information networks (in schools, institutions etc.) could not develop fully in such a short



time. The situation was much better within the assisting organizations – they were well informed. Over 90% of the employees working in institutions providing counselling and aid stated (in the expert study) that they were informed about the advertising campaign and law reform. Since this group has a central function as a multiplier, an important prerequisite for the further spread of information about the new right to a non-violent upbringing throughout the population has in any case been achieved.

However, the most important point was to insure

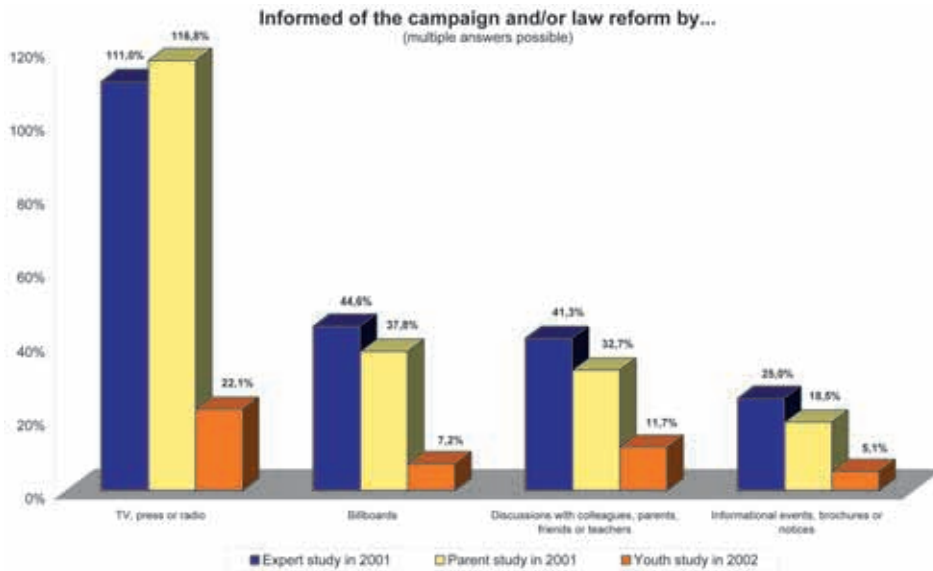
that particularly those families in which violence was most common and severe were informed of the new statutory role model. The survey showed that the information reached nearly all family groups equally, but the “violence-prone” parents were slightly less informed (25.5%). On the other hand, there was no noticeable variation between people with different levels of education. Fortunately, however, the youths who were subjected to the most violence at home were particularly aware of the revised law. In this group, the familiarity with the law was somewhat higher (31.2%). ■

7. How can public awareness of the new role model be increased?

The results show that it is possible to inform every parent, child and youth about the right to a non-violent upbringing. The message has reached more than just that group of parents who have in any case largely avoided resorting to violence in their childrearing. The first step has thus been taken, but there are still many more parents and children who should learn about the new role model. What can be done?

Mass media was once again the main opinion maker. The survey showed quite clearly that parents, children and youths learned of the campaign and law reform through the media.

Although children and youths absorbed less information, the fact that a similar degree of awareness (nearly 30%) was achieved makes it no less successful. In contrast, the regional advertising campaigns were of a lesser significance, even though these activities could best focus on the target groups of “violence-prone” parents or the children affected. Moreover, the provably more concentrated supply of information available at the campaign locations left visitors with a clearer awareness of the law.

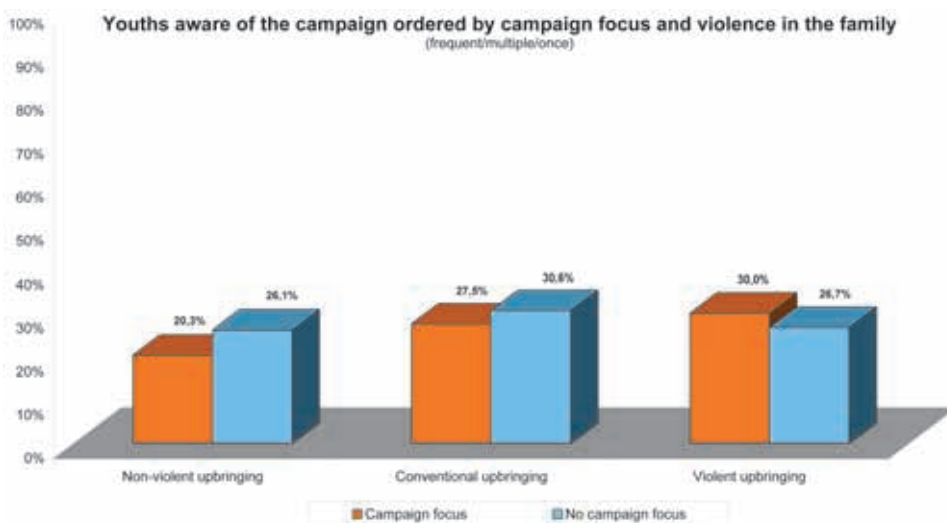


Therefore, in the future, the regional organizations supporting institutions providing counselling and aid will carry a special responsibility, since local measures are best suited for directly addressing the group of parents who tend to resort to violence in their childrearing.

The key actions take effect in still other ways. In spite of the fact that the law had only recently been revised at the time of the survey, an average of 11% of the institutions reported that their number of cases increased after the law was revised. In particular, children and youths turned to these institutions more frequently. A 19% increase in cases of corporal punishment in childrearing was reported by institutions largely those in the regional hotspots. Furthermore, more cases of sexual abuse were reported in these regions (+ 10%). Therefore, the advertising activities ha-

ve in general triggered an increased demand for counselling and support in the campaign locations.

In the experience of many institutions providing counselling and aid, the regional advertising and information measures should not only include doctors but also occupational groups such as school teachers and kindergarten teachers, since besides the parties involved (the parents and children) they have frequently drawn attention to violence and maltreatment in families and should continue to do so. The law reform encourages their willingness to cooperate, since every form of violence in childrearing is now absolutely prohibited and such indirect “meddling” is not only justified, but also completely legal. Children have a right to a non-violent upbringing. Reference to this objective legal position should be made repeatedly. ■



8. Does everyone actually want non-violent childrearing?

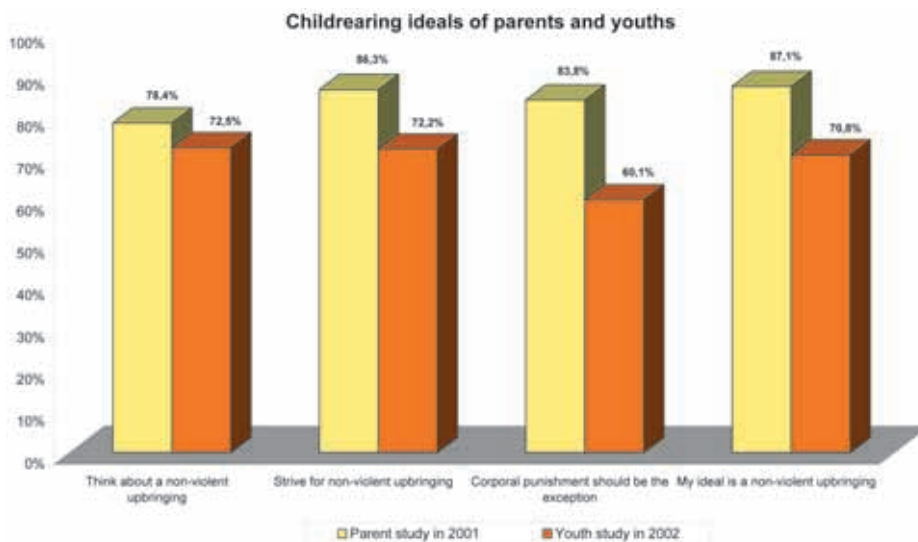
Naturally, the ideal of a non-violent upbringing finds its maximum support among experts. However, even the majority of the parents consider such an upbringing as ideal (87%).

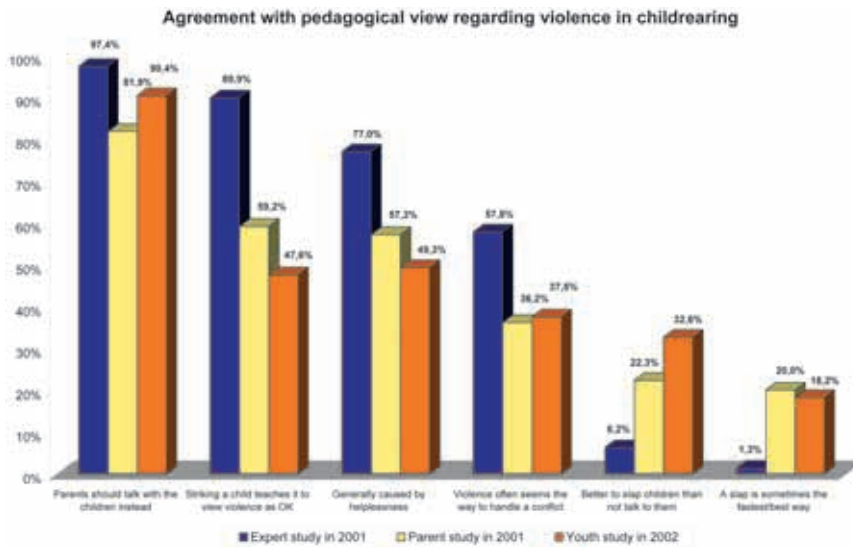
Over 80% would like as far as possible to avoid resorting to violence in their childrearing – corporal punishment should be the exception. Children are somewhat less optimistic about living this ideal should they become parents themselves – most likely due to their impressions of their parents' currently still not completely non-violent methods of childrearing.

The ideal of non-violent childrearing is also shared – in principle – by parents who resort to corporal punishment more than others do. 74% of the “violence-prone” parents also strive to achieve the goal of non-violent upbringing. Their ambivalence is shown, however, in their substantially greater justification of corporal punishment. More than half of the parents who resort to violence in their childrearing (54%) believe themselves to be justified in using this violence, and nearly half of them (48%) believe “A slap across the face is sometimes the

fastest and best way to set clear limits for a child”, while this opinion is shared by only a minority of the other parents (11%).

The survey results thus show how important it was to make violence in childrearing recognizable for everyone and to strip it of all legitimation. It may no longer be said that “a person may not hit another person, unless that person is his or her own child”. The views of the parents are largely in agreement with the opinions of experts at institutes providing counselling and aid. The consensus today is that parents should talk to their children instead of resorting to corporal punishment – over 80% of the parents and 90% of the youths share this opinion. Ever more parents see that they offer their children a poor example when they resort to violence (59%). However a small number of the parents are still ambivalent, they also see advantages to corporal sanctions. Nonetheless, today only 20% of the parents are of the opinion that “A slap across the face is sometimes the fastest and best method to get one’s way”. The majority of the parents no longer justify their corporal punishment with educational reasons, rather with the excessive demands and stress in daily family life and their feeling of helplessness (57%). Therefore, the opinions of the experts and parents and youths about what constitutes a “proper” upbringing are not actually all that different; as a rule, there is no fundamental disagreement. ■





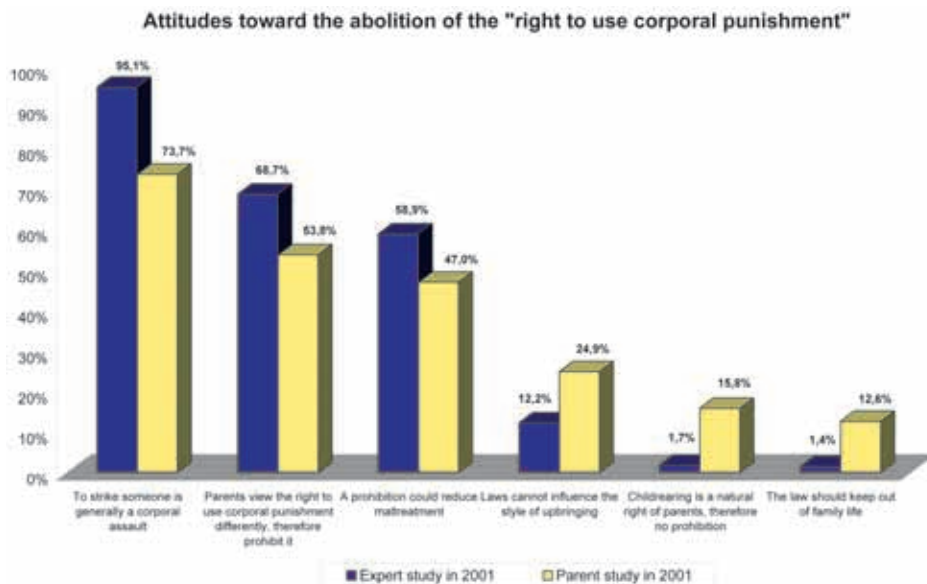
9. One cannot and should not regulate childrearing?

From time to time the objection is raised that laws cannot regulate childrearing; that they are only an interference in this area. Indeed, one should also not attempt to intervene, since parents have virtually unlimited rights in child-rearing or even a natural right to use corporal punishment.

The survey showed that the trend has continued to making the parent-child relationship a partnership of equals and that the majority now favours not only non-violent childrearing, but also a statutory prohibition of corporal punishment. 95% of the employees of institutes providing counselling and aid and nearly 74% of the parents are today of the opinion: "Striking any other person is a criminal offence; there is no reason why corporal punishment of a child should be treated differently." Only few parents are of the opinion that "The law should not become involved in the life of the family; parents must be allowed to set their own limits" (12.6%) or "the rearing of their child is the natural right of parents; no one has a right to tell parents what to do, not even the lawmakers" (15.8%).

While it is true that there are differences of opinion about the effectiveness of a statutory prohibition, but only about a quarter of the parents and 12% of those counsellors asked consider it completely useless. In contrast 47% of the parents and nearly 60% of the practitioners are of the opinion that by abolishing the right to use corporal punishment even ill-treatment will be reduced. Furthermore, the majority believes that the previously nebulous legal position contributed to the use of violence in childrearing. Nearly 54% of the parents agreed with the statement: "Parents interpret their right to use corporal punishment quite differently so clear limits can only be set by statute." Indeed this view is shared by a clear majority – nearly 70% – of the representatives [surveyed] of institutions providing counselling or aid.

Therefore, a prohibition of corporal punishment finds broad public acceptance. The new law will thus serve as an extra guidepost for many parents. The counselling of parents, whose childrearing is especially marked by violence, will also benefit. Even in the case of this group of parents, the majority accepts a prohibition of corporal punishment. Today only roughly a third (34.5%) of the "violence-prone" parents believe that they have what might be called a natural right to use corporal punishment in their childrearing – six years ago this belief was held by 46.4% [of these parents]. Therefore, it can be seen that there is growing approval in all families of a prohibition of the use of violence in childrearing. ■



10. What is the result of the prohibition of violence used in childrearing?

It could not be expected that there would be measurable consequences from the law reform in the approach taken by parents in childrearing at the time of the study (just one year after the law took force); these changes are to

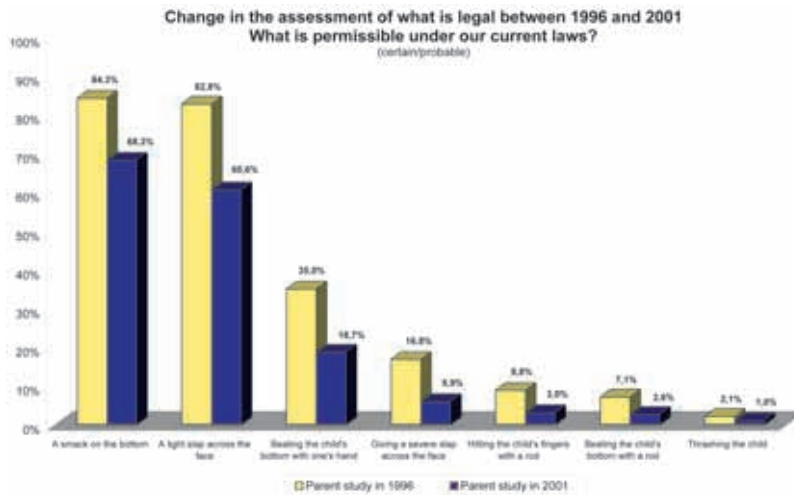
be expected over the next years. However, the new law has already influenced the sense of right and wrong, the understanding of the term “violence” and the communication in families as the following results show:

a) The legal awareness

Many adults were themselves beaten during their childhood and therefore frequently feel that they have a right to use violence in their own childrearing. On this point, the earlier legal provisions and their broad interpretation by the courts did not provide clear legal limits for parents. The new law with its absolute prohibition sets a clear limit to parental childrearing, and this is in accord with the view of right and wrong that is currently held by many parents and by most children and youths.

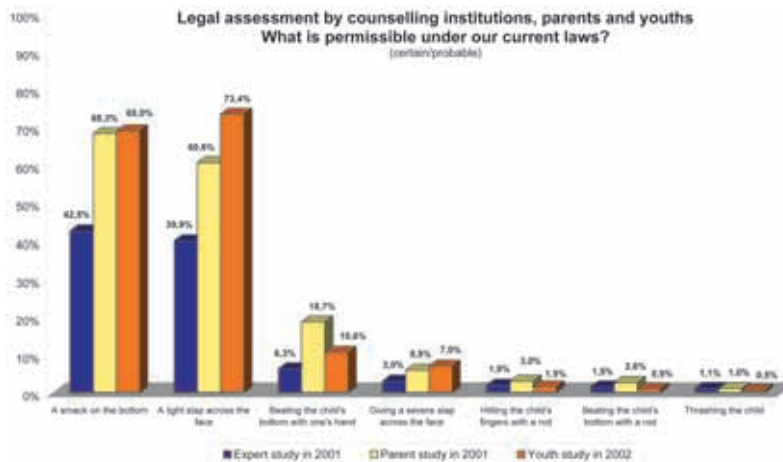
This trend is particularly noticeable in the younger generation. In 1992 about 80% of the youths felt that their parents had a right to slap them. In 2002

the number of youths holding this belief had fallen to about 50% (no graph). Today parents consider the use of violence in childrearing not only unproductive, but also illegal; there is a growing awareness of legal limits. In comparison to earlier surveys (made in the nineties), one finds that a pronounced sense of right and wrong has developed. This not only applies for serious corporal punishment but also for lighter forms. While less than a fifth (18.7%) of the parents surveyed in 2001 believed that serious corporal punishment such as “spanking a child’s bottom” was legally permissible, this belief was still held by more than a third (35%) of the parents surveyed in 1996. See the following graph:



Neither the long public discussion preparatory to the law reform nor the revised law itself (which had only been in force for one year at the time of the survey) can be seen as the main reason for the rapid shift in the public's sense of right and wrong. Nonetheless, this development will now be supported by the new right to a non-violent upbringing. With the revised law, the multitude of interpretations, which were previously possible, have been finally eliminated – there is no room for violence in parental childrearing.

As the study could show, the public's growing awareness of the new prohibition will strengthen this legal awareness. This can be quite clearly seen in a comparison with the employees working for institutions providing counselling or aid. With nearly no exceptions, these consider serious corporal punishment as impermissible even if some of the practitioners – roughly 40% – do not agree with the legal position regarding lighter corporal punishment and still consider a slap legally permissible.

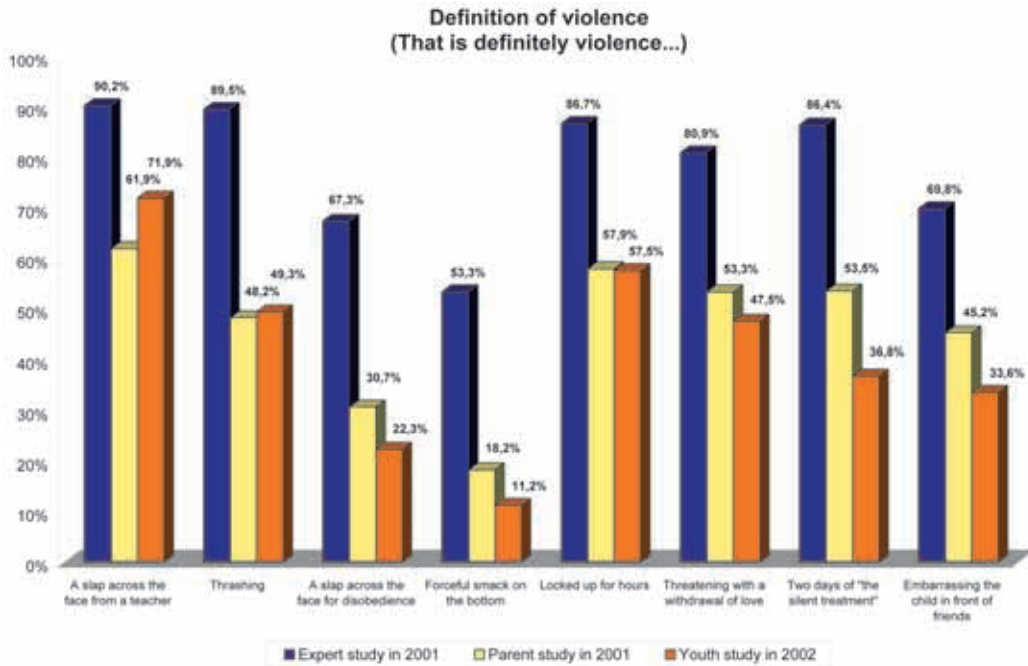


b) Sensitising people to violent childrearing

The legislation regarding the right to a non-violent upbringing is an appeal, since it dispenses with any resort to coercive measures and instead attempts to provide parents with clear orientation and to sensitise them to all forms of violence in childrearing. For this reason, it prohibits the use of any form of

punishment regardless of whether corporal or psychological.

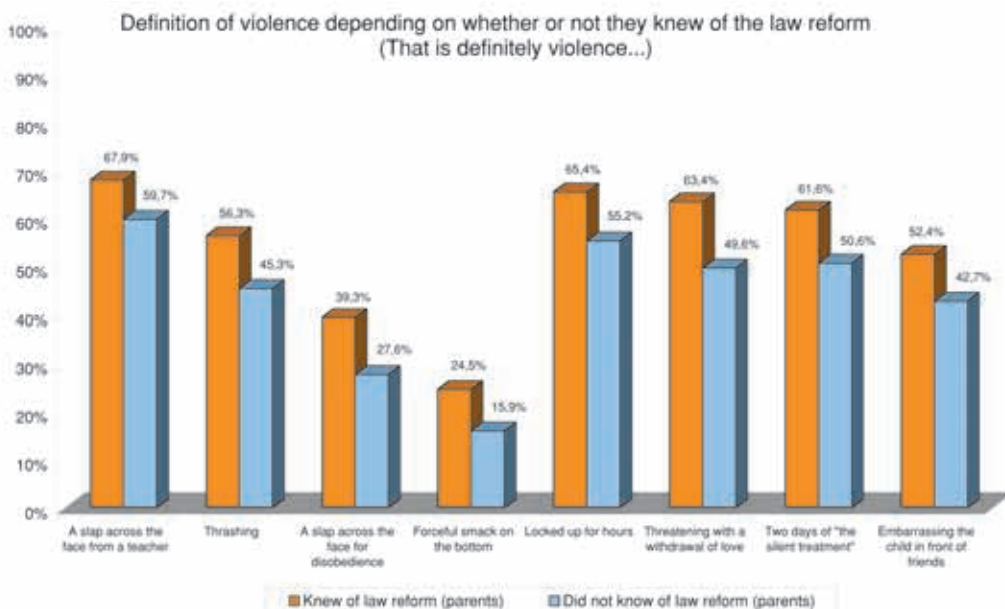
At present, many families are still insensitive to the various forms of violence used in childrearing. Most parents are against violence, but with regard to their own children their definition of where violence begins is vague enough to allow them to view their own behaviour as harmless. In particular, they are



rarely aware of the contradictions between their behaviour in childrearing and their attitude in which they consciously reject violence. This covers both corporal and psychological forms of violence. Even today serious corporal punishment such as a thrashing is still only judged to be a clear example of violence by about half of the parents (48%), while the long forbidden (simple) slap across the face by a teacher is described as violence by 62% of the parents and 72% of the youths surveyed. In contrast, the representatives of institutions providing counselling and aid show what is possible to achieve – nearly 90% consider a thrashing to be “definitely” an example of violence.

These findings clearly illustrate how important it is that the measures to educate and inform parents about the realities of childrearing be continued. The new law will support this process by providing the parents with clear guideposts.

A comparison with the parents who knew of the law reform illustrates how the new law sensitises people to violence. In all of the reaction examples, these parents used a broader and thus stricter definition of violence. This sensitisation can be seen with regard to not only corporal punishment, but also in connection with psychological violence.



c) Making violence in the family a central topic

The right to non-violent upbringing can only achieve lasting effects as a guide, when it stimulates discussions between parents and children or between parents and other adults on a regular basis. This effect could be shown by the studies.

The various arguments for and against punishment in childrearing were discussed more frequently when the children or parents knew of the new right (Group "Knew"). The legal aspects, in particular, were discussed more frequently especially by children. Informed children discussed the "legally still allowed and already prohibited punishments" as well as the "new legal prohibition of corporal punishment" with their parents substantially more often than the children who were not informed.

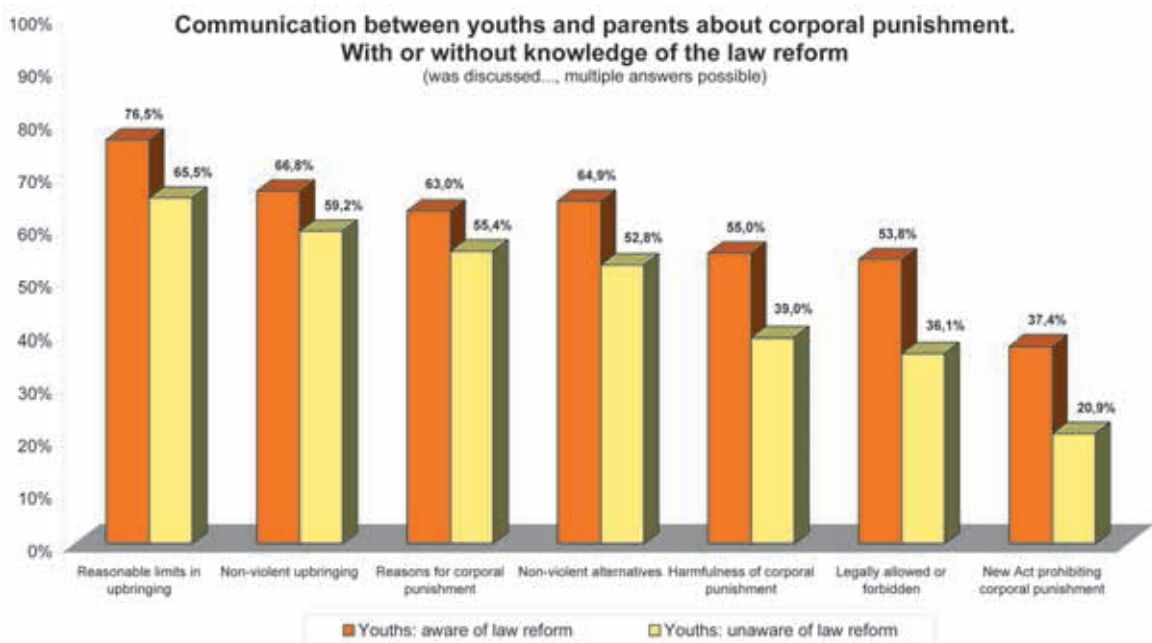
The new law is primarily intended as an appeal and not as a threat, but it may stimulate discussions regarding a non-violent upbringing, which is already substantial progress.

Furthermore, the survey showed that the provision is viewed as basically positive and can relieve conflicts in the family. The majority do not find the topic of legal limits a burden. Nearly half of the parents (46.8%) – including those who resorted to violence in

their childrearing – even felt that such discussions eased the climate within the family and more than a third found them helpful in childrearing (36.5%).

Occasionally, the objection was raised against the prohibition of the use of violence in childrearing that it would lead to families experiencing more stress or even conflict. As was expected, the parents who had the most difficulty with these discussions were those who most often resorted to both serious and light violence in their childrearing. However, even this group also experienced mostly positive results. Only about 5% of the parents reported a conflict. However, youths who experienced a relatively greater degree of violence in their upbringing were frequently more critical of such discussions. About a third of these youths found such discussions long and strenuous and more than 20% of the surveyed youths considered them as a source of conflict. On the other hand, this means that for 70-80% of the youths the discussions were not burdensome. In addition, even here the discussion of legal limits had mainly positive aspects.

Therefore, as a rule, there was no increase in the number of conflicts in the families as a result of introducing a prohibition of violence. On the contrary, it appears that the discussion of limits in childrearing actually eased and animated the climate within the families. ■

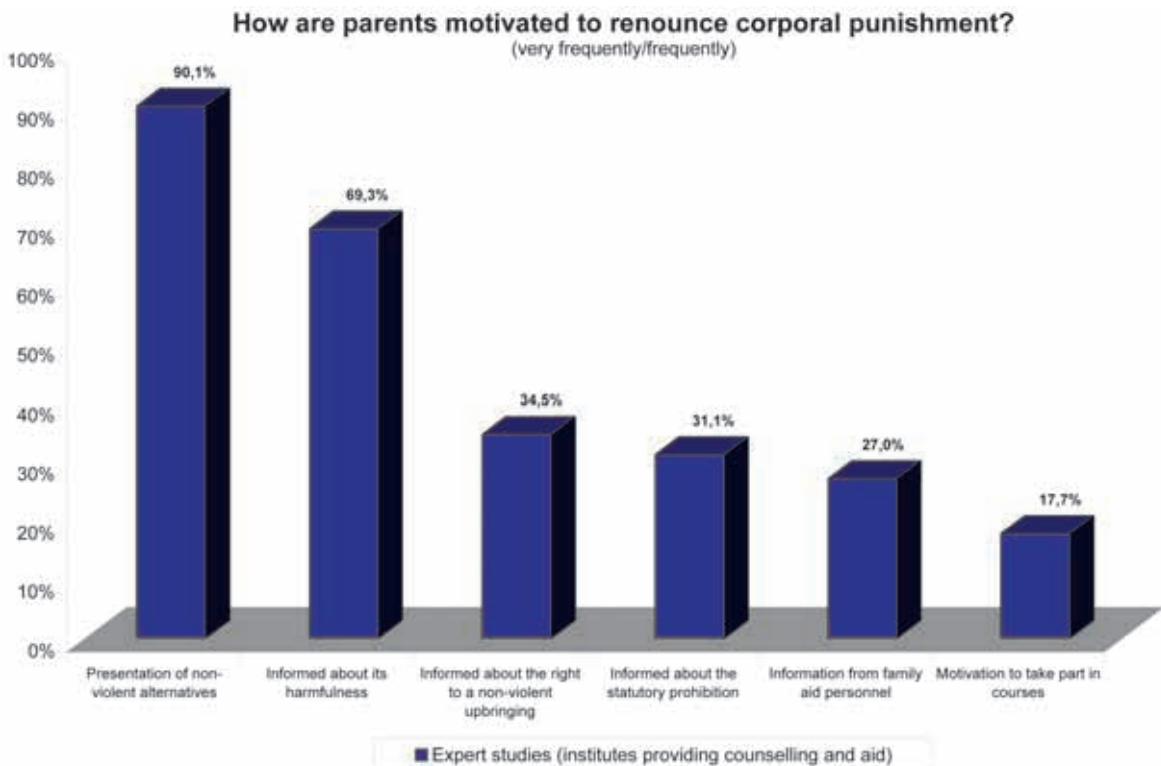


11. The consequences of the new law in therapeutic work

The institutions providing counselling or aid have had largely good experience with the new statutory provision.

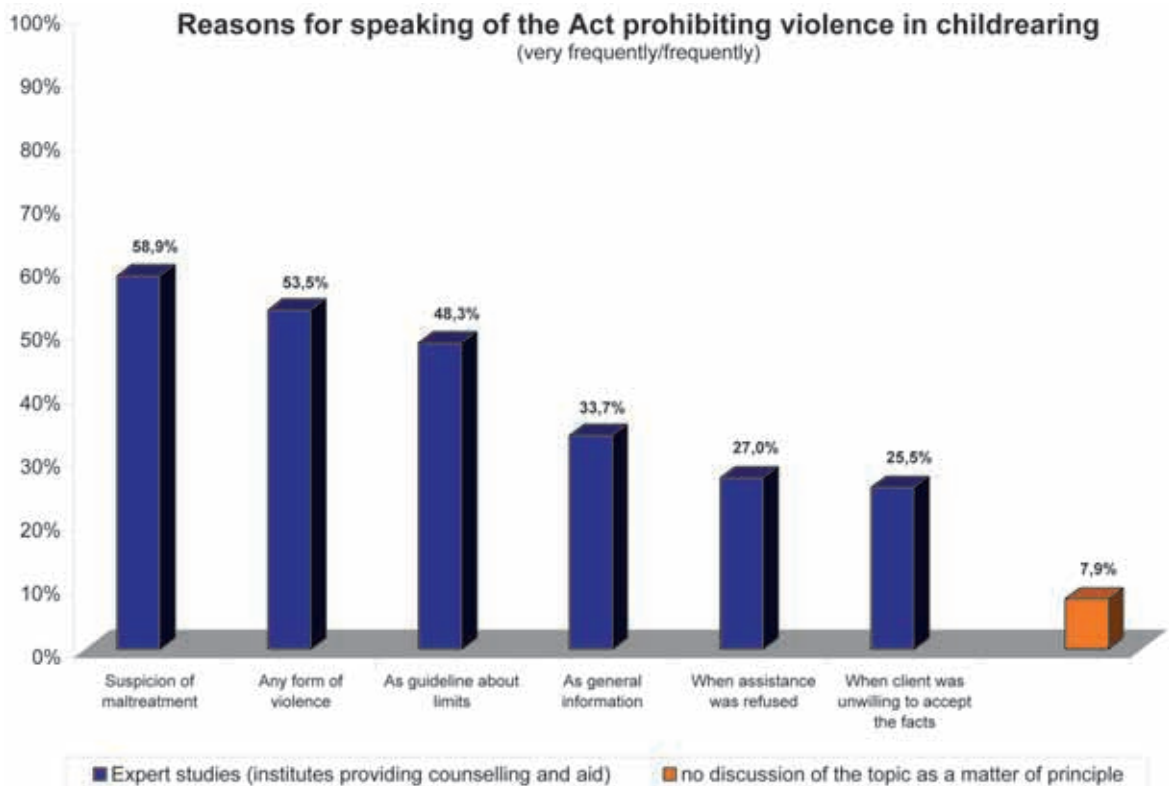
Although about 90% of the institutions use the presentation of non-violent alternatives for resolving conflicts to convince their clients and another nearly 70% discuss the damage caused by corporal punishment, nowadays about a third (34%) also – as an additional argument – resort to pointing out the existence of the law prohibiting corporal punishment.

In comparison, only about 8% of the institutions providing counselling or aid refuse to make reference to the now clear legal position. The legal position is mostly mentioned when maltreatment is suspected (58.9%). It is also mentioned as a guideline for the parents (48.3%). It is referred to less often in cases where the client is unwilling to accept the facts (25.5%) or when the offer of therapeutic aid is rejected (27.0%).



The experience with the new law in the institutions was largely positive (no graph). This was in particular true when conveying the new role model of childrearing (47.8%) and in the educational and therapeutic work (38.9%). Another 27.5% of the institutions reported that their counselling sessions were made easier by reference to the statutory provision and, in the view of 25% of the practitioners, this increased the willingness of their clients to accept the help offered.

In contrast, only about 20% actually found that mention of the law burdened the counselling atmosphere. Only a few reported from their work that clients refused further counselling (14.9%) or that there was a loss of trust (13.7%). In other words, in over 80% of the cases, any fears they may have had have proven unjustified. This balance should improve still further as experience is gained with the new law. ■



12. Conclusions

The results of the accompanying studies show how the new right to a non-violent upbringing has begun to serve its function as a role model and guidepost – in families and in the counselling of many institutions.

Thus, like the Swedish law on which it is modelled, the German legislation is primarily intended as an appeal, since it is not used to extend criminal prosecution to parents. In particular it is seen to satisfy the expectations of the majority of the parents and their children that the law should protect children against violence to the same extent as it does adults. In the future, more must be done to increase public awareness of this law. All are called upon to cooperate in this endeavour. ■

„Jenen, die jetzt so vernehmlich nach härterer Zucht und strafferen Zügeln rufen, möchte ich das erzählen, was mir einmal eine alte Dame berichtet hat. Sie war eine junge Mutter, als ihr kleiner Sohn etwas getan hatte, wofür er ihrer Meinung nach eine Tracht Prügel verdiente, die erste in seinem Leben.

Sie trug ihm auf, in den Garten zu gehen und selber nach einem Stock zu suchen, den er ihr dann bringen sollte. Der kleine Junge ging und blieb lange fort. Schließlich kam er weinend zurück und sagte: ‚Ich habe keinen Stock finden können, aber hier hast du einen Stein, den kannst du ja nach mir werfen.‘ Da aber fing auch die Mutter an zu weinen, denn plötzlich sah sie alles mit den Augen des Kindes. Das Kind musste gedacht haben, ‚meine Mutter will mir wirklich weh tun, und das kann sie ja auch mit einem Stein‘. Sie nahm ihren kleinen Sohn in die Arme. Dann legte sie den Stein auf ein Bord in der Küche, und dort blieb er liegen als ständige Mahnung an das Versprechen, das sie sich in dieser Stunde selber gegeben hatte: ‚Niemale Gewalt!‘“



Astrid Lindgren 1976.
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