

Should Corporal Punishment of Children Be Abolished Everywhere?

By

Enoch K. Appiagyei

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Department of Political Studies

University of Manitoba

Winnipeg, Manitoba, Canada

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ABSTRACT

This piece focuses on two questions about corporal punishment of children. First, is corporal punishment effective? In other words, does it achieve its proponents' stated aims? Second, whether it is effective or not, is it morally permissible? Parents, it has been generally argued have broad rights to discipline their children, and it is a widely held convention that a good parent will use them. Some scholars and professionals argue that corporal punishment is the best way to induce children's compliance and deter misbehavior. Others see it as being proper for children's own good- in that, it is instrumentally useful in helping children flourish as children, and molding children into the kinds of adults it is good for them to become. For example, corporal punishment might make children autonomous, respectful, and responsible. Adopting the theoretical method of reflective equilibrium and relying on secondary data, this thesis advances two arguments. The first is an argument that corporal punishment is not effective. The second is independent. Even if corporal punishment were effective, the second argument holds that, because of children's moral right to security of the person which forbids needless bodily interference, it is not permissible to practice it, and thus corporal punishment ought to be abolished everywhere. To illustrate these arguments, I will use Ghana as a case study.

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CHAPTER 1

INTRODUCTION

Keywords: corporal punishment, discipline, children's rights, parental rights

While it is a debated issue in parenting ethics and contemporary political theory, corporal punishment remains an accepted phenomenon in many places throughout the world.¹ Parents, it has been generally thought have broad discretion or rights to discipline their children (Dietrich, Berkowitz, Kadushin, and McGloin 1990). It is a widely held normative convention that the mark of a *good parent* is one who disciplines their child (Durrant and Ensom 2012). And one of the most common ways disciplining children is corporal punishment. The importance of corporal punishment, some societies hold is to induce compliance, deter misbehavior, mold children into the kinds of adults it is good for them to become (Benatar 1998).

This thesis asks two questions about corporal punishment of children. The first is, whether corporal punishment works. The second is whether it is effective or not, is corporal punishment morally permissible? Adopting the theoretical method of reflective equilibrium and relying on secondary data, I seek to advance two arguments. First, that corporal punishment is not effective. The second is independent. Even if corporal punishment were effective, I propose that because of children's moral right to security of the person which forbids needless bodily interference which includes corporal punishment, corporal punishment is morally impermissible, and thus ought to be abolished everywhere. To illustrate my arguments, I use Ghana as a case study.

The early part of this introductory chapter presents a working definition and application of corporal punishment to facilitate analysis of the efficacy and moral permissibility of corporal punishment.

¹ A recent study shows that, globally, three out of every four children face punitive violence at home (UNICEF 2010).

It also presents detailed discussion of the research problem and a brief synopsis of the current state of the literature on corporal punishment. Other aspects discussed include the objective and significance of this study. In the latter part of this chapter, I explore the methodology, scope and limitation of this study, as well as outlining the roadmap of this study.

What punishment is corporal?

Corporal punishment resists easy definition and description. As a term corporal punishment is often used by lawyers, theologians, ethicists, political philosophers, and so on with varying implications. Corporal punishment is derived from the Latin word '*corpus*', literally translated as '*of or relating to the human body*'.² In a more particular sense, corporal relates to the physical part of human (i.e. the tangible), and does not include the mind, spirit or emotions (i.e. the intangible). In simple words, to count as corporal the punishment should be physically inflicted on whatsoever part of the human body, though can also affect the emotional and mental faculties of the body (Scarre 2003). Generally, corporal punishment includes beatings³, coercive labor and even in its extreme implication, maimed torture, but excludes *capital punishment* (Benatar 1998).

The basic rationale behind most physical punishment⁴ is to induce pain and discomfort (Scarre 2003). Although in most cases the aim of corporal punishment is to inflict pain and discomfort, in rare cases, the aim of physical punishment is to cause injury to dissuade the subjects from repeating their wrongdoing(s). For example, a frequent speech of my mother was, 'let me beat him, anytime

² The Latin word *corpus* has other meanings such as a low-ranking noncommissioned officer in the armed forces, or a cloth on which the chalice and paten are placed during the celebration of the Eucharist. However, this study only makes use of the adjectival meaning of the word. For detailed explanation of the word, see https://www.google.ca/search?q=origin+of+corporal&ie=utf-8&oe=utf-8&gws_rd=cr&ei=bkc6V_mGAszZjwTan42ADw

³Other examples of corporal punishment include spanking, caning, hitting, paddling.

⁴ In what follows, I use the words corporal punishment and physical punishment interchangeably.

he sees the scar(s) on his hands he would dare not do that again'. Strauss (1994), expresses that some people regard themselves as, "beating the devil out of the subjects of corporal punishment." Based on the intentions and outcomes, we can observe two forms or kinds of corporal punishment-injurious and non-injurious. It appears in the literature that physical punishments that cause injury are considered assault, and thus conventionally held as immoral. The natural question that rises is, what about physical punishments which do not cause injuries? Should we allow non-injurious physical punishments? Does the fact that X's blow at Y did not hurt Y means X, is justified throwing the blow at Y? I think certainly not, except for in situations where Y may have consented to X's blow as it is in the sport of boxing.

The focus of this study is therefore not limited to only punishments that cause physical injury, but also others that do not cause physical injury. Accordingly, corporal punishment as used in this study refers to;

any physical punishment, regardless of the consequences, inflicted on children to cause physical pain, emotional or psychological discomfort, so as to correct and/or deter their misbehavior.

The above definition and its focus on children have relevance across cultures. Children are the visible victims of corporal punishment. Children everywhere irrespective of the prevailing cultural practices experience some aspects of the above definition in homes and schools (UNICEF 2010). In adult-adult relationships, coercive interactions are considered morally wrong. This plausibly explain why adults do not suffer physical punishment, compared to children, who given their delicate physical and psychological characteristics should have been free from physical punishment, but are the everyday victims of physical punishment. A number of reasons account for why physical punishment of children is prevalent worldwide. Following, next, I present a broad

overview of corporal punishment of physical punishment of children, and later on identify the specific areas of corporal punishment that are of prime concern in this study.

The Research Problem

Society has varying perspectives on corporal punishment of children. Parents, as previously mentioned, are believed to have broad discretion to discipline their children, which includes corporal punishment of their children. The widely held normative convention therefore is, a good parent is one who disciplines their child (Durrant and Ensom 2012). Illustrating society's typical reaction to physical punishment of children, Leach (1994, cited in Oates 2011, p. 507) writes in his famous book *Children First*; “when a big child hits a small child in the playground, we call him a bully; five years later he punches a woman for her handbag and is called a mugger; later still, when he punches a workmate who insults him, he is called a troublemaker; but when he becomes a father and hits his tiresome, disobedient or disrespectful child, we call him a disciplinarian.” Parents sometimes invoke a misquotation of the Bible saying ‘spare the rod and spoil the child’ as a defense of the physical punishment of children. What the Bible actually says is “He who spares the rod hates his son, but he who loves him is diligent to discipline him” (Proverbs 13:24 RSV). Indeed, at a first glance these two versions of Proverbs 13:24 reference to the rod appear to be in strong defense of the use of corporal punishment. The problem however is how the word *discipline* is taken to mean (corporal) *punishment*. In fact, I think we can discipline without corporal punishment, and that is the focus of this study.

Even in liberal democracies, where in recent years children have generally been given increased recognition as moral subjects, certain forms of corporal punishment are considered useful for children’s own good- in that, corporal punishment is instrumentally important to children’s flourishing as children, and molding children into the kinds of adults it is good for them to become.

For example, some believe that corporal punishment helps children become autonomous, respectful, and responsible. Let us call this paternalistic defense of corporal punishment the *instrumental value argument*. This argument supports corporal punishment not only in the home, but also in schools (Lenta 2012). The justification of corporal punishment based on putative instrumental benefits for children brings a tension to a head.

Suppose, for example, that Professor X spans his grade seven son for using his laptop for purposes other than academics at an odd hour. When the Professor turns up for his lecture the next morning he witnesses a similar situation; just like with his son, Professor X disapproves of his upper year undergraduate students ‘face-booking’ during lecture hours. To deter and seek compliance from his students can Professor X physically punish the students to achieve his desired ends? Pointing to the moral status of the subjects in question, proponents of corporal punishment argue that the adult-child relationship is different from the adult-adult relationship exhibited in the university case.

Generally, children possess a special status, which differentiates them from adults (Schapiro 1999); they are in a state of development. From birth until the end of adolescence, children go through biological, psychological and emotional transformations. Until such a period when they are able to think and act more rationally and systematically, they are dependent on adults. In virtue of their ‘dependency’, they are accorded a different moral status than adults. Normatively, our ideas about how we should relate to children and how should treat them differ from how we think we should treat adults, who we view as being developed autonomous beings. We thus conventionally interact with children based on paternalistic standards- we interfere or limit their actions and freedom because their lives and choices are not fully their own (Schapiro 1999). In

their own interests, some of children's freedom, it has been argued must be constrained. However, we must determine which freedoms should be constrained; under what conditions, when, and how?

Until fairly recently, corporal punishment had received little attention in the ethics and political theory literature. The bulk of the existing literature focuses on refuting the efficacy of corporal punishment and examining the legal dimensions. Taking into consideration the growing body of empirical evidence, corporal punishment is increasingly seen as a significant risk factor to children (Holden 2014, Durrant and Ensom 2012). Child-Clinical Psychologists observe that corporal punishment has adverse mental and physical health consequences for children (See e.g. Turner and Finkelhor 1996, McCabe and Clark 1999, Gershoff 2002, Durrant 2006, Zolotor 2014) - call this the *harm argument*. Invoking the *harm argument*, antagonists of the practice advocate for its abolition. This brings into question whether the argued 'bads' of corporal punishment warrant its universal abolition (See e.g. Benatar 1998, Allan 2002). A rejoinder from defenders of the practice is that the goods associated with corporal punishment outweigh the bads. Supporters of the act firmly argue that no other alternatives could achieve the aims of corporal punishment as efficiently. Moreover, any state action to prohibit corporal punishment undermines or takes away from parents their moral and legal rights to discipline their children (Benatar 1998).

Given that corporal punishment is highly prevalent in most cultures (UNICEF 2010), and resorted to not merely as the last viable option in many homes and schools, it brings to light two important questions. First, is the effectiveness question. Does corporal punishment really have benefits? Suppose, for example, parent X wants child Y to become a 'disciplined adult' so she physically punishes the child. Will child X grow to become the disciplined adult sought? Similarly, to improve or increase the grades of his students, teacher X always beats students who do not make it past the pass mark. Many assume that there will be instrumental benefits in each scenario, but

does corporal punishment really work? Independent of this question is another important question- is the act morally permissible. As Scarre (2003, 3) observes, "...the moral debate on corporal punishment has been closed prematurely and that it ought to be reopened". Scholars and practitioners in the field have examined these two important questions, but they require more attention.

While social scientists have examined the effectiveness of corporal punishment (through empirical studies), political theorists have paid insufficient attention to the moral permissibility of the act. Every coercive act in society requires reasonable moral grounds for its execution, so it is imperative for us to ask about the morality of corporal punishment, apart from its effectiveness. Whether it causes pain, or not, whether it is injurious or not, the brute fact is that (corporal) punishment is coercive.

Over the past few decades, many political and legal scholars have sought to make moral arguments against physical chastisement and torture of criminal offenders. If physical chastisement and torture of criminals are viewed as violent and illegitimate methods of punishment or control and have thus been abolished in several (liberal) states, then we must apply moral scrutiny to the corporal punishment of children. As Oates (2011) rightly argues, it appears that the group of persons it is still legal to hit are the most vulnerable ones. This is the key issue of concern policy makers and us political thinkers. The question for contemporary thinkers and policy makers is whether transgressors of statutory provisions such as murderers, rapists, robbers, etc., should be protected more than transgressors of some assumed moral values such as parental disrespect. To contribute to the debate on whether corporal punishment should be abolished everywhere, this study seeks to answer two central questions;

- (a) Empirically, does corporal punishment work, and;

(b) Whether it works or not, is it morally permissible?

State of the current Literature

Discussions on corporal punishment have produced various viewpoints in the literature. Authors have sought to look at the phenomenon from varying perspectives, and with different interests. Impressive works by Greven (1990), Wiche (1990), Gershoff, Miller, Holden and Parke (1999), Kaplan (2006), and Ellison and Bradshaw (2009) sketch the roots of corporal punishment. Others such as Korsch, Jewell, Ethel and Paul (1965), Newson and Newson (1968), Youssef, Attia and Kamel (1998), Straus and Stewart (1999), Durrant (2003), and UNICEF (2010) have examined why corporal punishment is prevalent in homes and schools.

Studies by Freeman (1999), Whaley and Gomaz-Diaz (2000), Rentlen (2004, 2010), Lansford (2010), and Taylor, Hamvas, Newman, Paris and DeJong (2011, 2011) explore cultural differences, and whether culture can provide sufficient grounds for justifying corporal punishment. The question of whether the act really works have been examined by Gershoff (2002, 2010), Gershoff and Bentisky (2007), Durrant (2011), Durrant and Ensom (2012); Hyman (1997), Turner (2001), as well as Durrant (2003, 2011). Donnelley and Straus (2005), Bitensky (2006), Freeman (2010, 2011), Saunders and Goddard (2010), and Desiree (2014) discuss whether physical punishment of children constitutes child abuse.

Questions surrounding the ‘permissibility’ of the act have recently received some attention amongst ethicists and political theorists, notable works on the moral question of corporal punishment include but are not limited to Benatar (1998), Allan (2002), Scare (2003), Archard (2004), and Lenta (2012). Influenced by several works of authors mentioned above, Agbenyega (2006), Ame, Agbenyiga and Apt (2011), as well as Twum-Danso (2013), bring into perspective the state of corporal punishment in Ghana.

The literature on corporal punishment of children including those listed above has produced empirical arguments for and against corporal punishment, as well normative arguments for and against corporal punishment of children. Significant works against corporal punishment find corporal punishment of children to be risky and ethically inhumane. The central argument of some of such works is that, physical punishment ought to be eradicated from society because it is risky and abusive. Moreover, it is less effective than other methods of discipline (See e.g. Turner and Finkelhor 1996, McCabe and Clark 1999, Gershoff 2002, Durrant 2006, Durrant and Ensom 2012, David 2011, Taylor 2011, Holden 2014, Zolotor 2014). On the other hand, there are significant arguments in the existing literature that support corporal punishment (See e.g. Benatar 1998, Allan 2002, Scarre 2003).

The Harm Argument: Corporal Punishment is Psychologically Risky and Abusive

Many clinical-child psychologists observe a positive correlation between corporal punishment and negative developmental outcomes for children (Durrant 2012). Straus (1994) finds in his empirical study that children physically punished develop mental and physical health problems such as depression, rigidity, heightened anxiety, reflexive aggression, and more.⁵ Speaking to the pain it inflicts, and the emotional distress it brings to them, children in that study lament that, corporal punishment is not a very nice thing to do to people. In view of this, Hyman (1997), Turner (2001), Durrant (2003, 2011), Donnelley and Straus (2005), Bitensky (2006), Freeman (2010, 2011), Saunders and Goddard (2010), and, Desiree (2014), opine that corporal punishment is abusive, and

⁵ In "The Case against Corporal Punishment of Children: Converging Evidence from Social Science Research and International Human Rights Law and Implications for U.S. Public Policy.", Gershoff (2010) makes similar observations. See also Gershoff and Bitensky (2007).

constitutes a violation of children's right to be free from oppression and violence (See also Lenta 2012, 2017).

Corporal Punishment is not effective

Some studies on corporal punishment suggests that it is not an effective form of punishment, in that; it does not deter children from further or future wrongdoing. Corporal punishment it has been argued only induces short-term compliance (Turner 2003, Durrant and Ensom 2012). Hyman (1997) asserts that effective punishment requires that the punishment be inflicted after every (or nearly every) incident of wrongdoing. Given our inability to be with children always, we cannot physically punish children after every wrongdoing, which makes corporal punishment ineffective. When parents or punishers are absent, there is no motivation for children to behave. As an illustration Hyman (1997) writes that, drivers who enjoy speeding will not speed if they are aware that police are around but will in their absence. Some suggested ways of effectively correcting misbehavior include taking away privileges, detaining children at school, sending children to bed early (Hyman 1997, Wolraich, Javier, Heidi and Hagan 1998).

Arguments for Corporal Punishment

For some reasons, there are significant works in the literature that support the practice of corporal punishment. For example, Benatar (1998), points out that corporal punishment has utilitarian benefits. One such utilitarian benefit is that it is only the victim that suffers, and no one else. To Benatar, the consequences of other forms of punishment such as detaining a child at school is unjust because those who are not guilty also suffer.

Scarre (2003) illustrates Benatar's claim by arguing that compared to other forms of punishment such as detention, when a student receives physical punishment, it is only that student that feels

the pain. However, with detention, both the parents and teacher of the student suffer the pain as well. On the part of the parents, if they have two or more kids at the same school, they have to either wait for the detainee to exhaust his/her detention time or drive more than once to the school to pick up their wards. The teacher would also have to stay until the students finish serving their punishment.

There are other arguments that insist that the benefits of corporal punishment outweigh the costs. According to Wilson (2001, 411), also, a utilitarian, corporal punishment is “cheap and easy to administer” because there is only one monetary cost: the paddle, compared to other forms of punishment, which impose additional costs (Cited in Clark 2004). For example, detention of students may require teachers to be paid for any extra time, and schools opened longer than usual. Some utilitarians thus conclude that corporal punishment brings about more immediate feedback and comes with lesser drawbacks than other forms of punishment.

The parental entitlement argument previously mentioned is also one of the arguments in favor of corporal punishment of children. The parental entitlement as we observed is the view that parents have moral and natural rights over the welfare of their children, which includes disciplining them how they like. To that end, some defenders of physical punishment of children hold that parents are justified to use corporal punishment if they see it as the best way to discipline their children. As a matter of public policy, proponents of corporal punishment of children argue that abolishing corporal punishment constitutes a violation of the liberty interests of parents (Benatar 1998).

Objective of study

This study has as its objective, critically examining the effectiveness of corporal punishment, and establishing whether corporal punishment is morally permissible. Specifically, the study seeks to

look into how the moral question of corporal punishment weakens or strengthens the widely held intuition that it is acceptable to administer physical punishment on children.

Significance of the study

It is my hope that the empirical findings called attention to in this project could help alter parents' and child carers' perceptions about the effectiveness of corporal punishment. I also intend to show why corporal punishment is immoral and ought to be made illegal in homes and schools. Finally, this study serves as a building block for my future academic work.

Methodology

As one of its primary tasks, this study seeks to answer the moral question of corporal punishment, is corporal punishment morally permissible? When there is a widespread and deep disagreement about an issue, as there is with corporal punishment, we need some method of addressing the disagreement and trying to settle the matter. One promising approach requires a dialogue between our viewpoints and a set of moral ideals (or principles) (Daniels 1979) - this approach is called *reflective equilibrium*. For thorough consideration about the morality of the issue in question, I employ the reflective equilibrium approach. I also rely on secondary empirical data and use Ghana as a case study.

Reflective Equilibrium

We tend to look at things and explain them based on varying beliefs and opinions we already hold. While some scholars argue that we should physically punish children, others argue we should not. A good moral account requires coherent and consistent arguments. This brings a problem to the philosopher- identifying a moral approach which best satisfies these important requirements. Contrasted with some other moral approaches such as foundationalism, reflective equilibrium has

been most widely used in contemporary political theory (Daniels 1979). I think it is the best method available, so I employ it here.

Daniels (1979, 258-262) explains reflective equilibrium as a process through which a philosopher attempts to arrive at a coherent moral theory which is compatible with a wide range of pre-theoretical commitments or moral intuitions (i.e. beliefs or feelings that we might have as to whether a particular action is right or wrong in some situation). In addition to tailoring our principles so that they are compatible with our beliefs or feelings as to whether a particular action is right or wrong, we are also looking to vindicate our convictions in certain principles. In this case, I am examining the assumption that it is good and or right to administer physical punish on children, while also seeking to vindicate principled convictions that are not about cases (e.g. that children are property of their parents). Throwing more light on the usefulness or rightness of corporal punishment requires that we test moral principles against our pre-theoretical commitments. If our moral principles are harmonious with each other, as well as our intuitions, then the theory is said to be in equilibrium (or consistent). However, a discordance or conflict between moral principles we endorse implies a disequilibrium, an incoherent theory. In such a situation, to arrive at an equilibrium, the reflective equilibrium approach demands a revision by doing one of the following; (i) modifying the principles (ii) deciding that we were wrong about the cases, or (iii) abandoning our intuitions about corporal punishment. Let us consider an illustration below.

Let us start with an intuition that it is bad or wrong to abort a pregnancy. To explain why we believe so, we should look at our beliefs or intuitions. We may say that fetuses are innocent, and

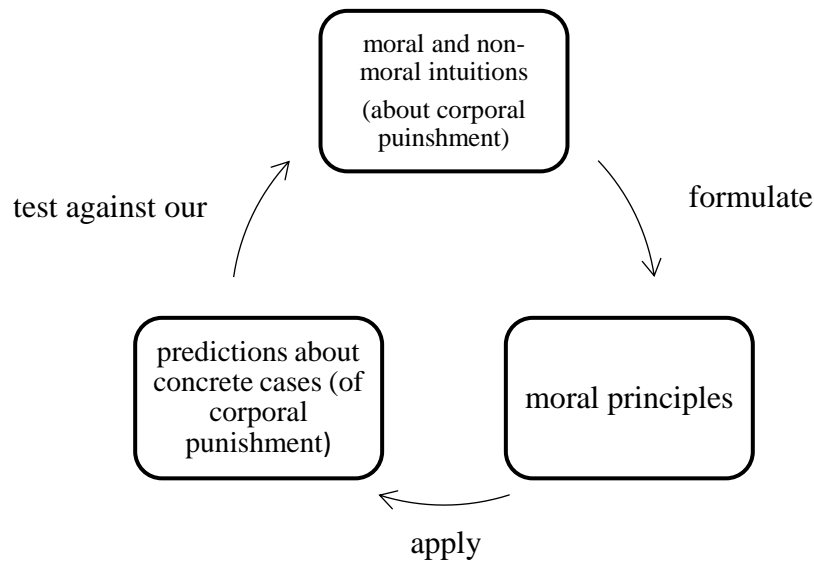
we should not kill innocent people.⁶ Is this assertion always true? Now let us observe this scenario; a pregnant woman suddenly develops a severe complication. With all other options failing, the doctor advises that the mother is most likely to die if she continues to keep the fetus. The suggested action is to abort the pregnancy. One may say that although it is abominable to kill the fetus, given the emergency at hand it is the right thing to do. This illustrates another moral intuition, one that is inconsistent with the original principle that we should not abort babies because they are innocent people. To make a coherent argument for or against abortion then, (i) we would have to revise our original principle that fetuses are innocent, and we should not kill innocent people, or (ii) decide we are wrong about the case i.e. a pregnant woman with complication, or (iii) abandon our convictions that it is wrong to abort a pregnancy. Little (1984) opines that, the preferred moral theory is the one that best serves to organize and explain our considered judgments and moral convictions. For example, in the above illustration, a preferred (consistent) moral theory could be perhaps formulated as; *we should not abort a pregnancy unless it is required to save the mother.*

The most famous application of the approach in ethics and moral philosophy is found in Rawls (1971)' highly influential work *A Theory of Justice*, where he considers the conflicting moral beliefs we may have with respect to justice (Daniels 1979).

⁶ There are conflicting views on the moral status of foetuses- whether they should be treated as people. For the sake of argument, let us assume that they are people, and should be treated as such.

The reflective equilibrium approach adopted in this study is depicted below:

Fig. 1. The Reflective equilibrium⁷



Secondary Data

The primary sources of secondary data used here are textbooks, journal articles, and published theses. Other secondary data to be employed in this study include statistical data, reports from government, as well as the United Nations International Children's Emergency Fund (UNICEF), and Global Initiative to End All Corporal Punishment of Children. These sources will be used to examine some of the moral arguments for and against corporal punishment, as well as empirical claims regarding the effectiveness of corporal punishment. Considering that, the best moral theory is one that best serves to organize and explain considered judgments and moral convictions, it is

⁷ The above diagram is based on a model produced by Lau and Chan, "The Method of Reflective Equilibrium" assessed July, 24, 2016 <http://philosophy.hku.hk/think/value/equilibrium.php>

appropriate for us to scrutinize the referenced works to determine whether there are acceptable moral grounds for us to use corporal punishment.

Analyzing textbooks, journals articles, and statistical data will lead to new discoveries about the debate concerning the frequency and intensity of corporal punishment as well as, perceptions, and attitudes toward corporal punishment. UNICEF and Global Initiative to End All Corporal Punishment of Children publish accessible articles on children's right, which includes corporal punishment.

Case Study

While debate on corporal punishment continues in the 'liberal Western world', much less is heard about it in the global south. It is no doubt that the repercussion of this is the prevalence of corporal punishment in this part of the world particularly African countries (see e.g. Global Initiative to End All Corporal Punishment of Children 2017). Cultural conservatism and strong subscription to traditional values in this part of the world dissuades people from questioning the effectiveness or morality of corporal punishment to non-Western communities (Twum-Danso 2013). Societies inclined to cultural conservatism lean towards the idea that as members of the society their core duty is to maintain shared culture. The African way of life promotes maintaining traditions and shared culture. The traditional way of thinking and doing things, herein culture, influence nearly every aspect of life, even in defiance of civilization (See e.g. Kyei-Gyamfi 2011). Once an action is accepted or forbidden in their culture, the indigenes are less concerned with external condemnation of doing the accepted or not doing the forbidden.

To explain the dynamics of the debate, it is imperative to consider the relativist objection to the Universalist claims that corporal punishment is inefficacious and morally wrong. This will help us to make appropriate contextual observations to see whether universal arguments can hold. It is in

light of this that I bring into the state of corporal punishment in Ghana. I am convinced that Ghana is a good case to examine for the following reasons. To begin with, I think that if we want to illustrate corporal punishment from a cultural relativist point of view, we must identify a ‘cultural-centric’ state where corporal punishment is prevalent. This is where I think Ghana is a good fit. According to UNICEF and Global Initiative to End All Corporal Punishment of Children global reports on physical punishment of children in 2010 and 2017 respectively, Ghana is one of the countries with prevalent cases of corporal punishment of children. The use of physical force in disciplining children in Ghana, Global Initiative to End All Corporal Punishment of Children (2017) observes is generally embedded in the cultural and religious beliefs, values and norms of the Ghanaian society. Like most African countries, Ghana, is a ‘culture-centric’ country where every aspect of life is underscored by cultural motives, including juvenile ethics (Kyei-Gyamfi 2011). By culture-centric I mean that there is high importance on and attachment to culture, such that societal institutions (like family, friendship, religion, etc.) are firmly constructed on traditions, value-system and aspirations of the people. How people ought to conduct themselves are guided by the prevailing objectified forms of conduct.

Scope and Limitations of the Study

This study seeks to examine the effectiveness and morality of corporal punishment. While I shall argue that, corporal punishment is not effective and morally wrong, I am less concerned with identifying, proposing, and defending other alternatives to corporal punishment. This study leaves these aspects of the debate for future research. Recognizing the global and dynamic nature of the debate, it would have been optimal to consider more cases; however, this project has room for only one case study. I chose Ghana for reasons aforementioned.

I also chose Ghana for relational reasons. It is my home country. I recognize the risk of running into bias. Notwithstanding, I think that personal experience plays important role in research. Personal experience enables the researcher present evidence to what is being studied (Jackson and Verberg 2006). In this light, it is appropriate to make Ghana, my country, the case study. I can ably speak to the debate by relating personal experience to arguments in the literature.

Lastly, it is worth mentioning that I do not provide a substantive chapter for possible objections to my views. I consider objections as I go along with arguments.

Organization of the Study

The study has been structured into seven chapters. Developing an argument that all forms of corporal punishment are ineffective, and morally impermissible, this chapter provided the general background for the study. Aspects discussed in this chapter included the statement of the problem, brief account of the state of the current literature, objective and significance of the study, as well as the methodology to be employed. Chapter two describes the practice of corporal punishment. It looks at the empirical, legal, and philosophical dimensions of corporal punishment. Specifically, chapter two asks the question ‘what is corporal punishment?’ The next chapter consists of an in-depth literature review. In chapter three, I review some of the relevant works conducted on, or related to the corporal punishment of children. The review will be presented under three (3) subheadings. While the first reviews arguments made for corporal punishment, the second reviews arguments against corporal punishment. The chapter concludes with a summary and evaluation of the existing literature on both sides of the debate. Chapter four investigates the cultural contexts of parenting and corporal punishment. This chapter captures the cultural perspectives of corporal punishment- how culture influences parents’ attitudes and practices in child rearing. Chapter five discusses the theories of moral rights. In this chapter, I examine the rights of parents in child

rearing, as well as the rights of children who are subjected to corporal punishment. Chapter six is the case study, it examines the state of corporal punishment in Ghana. This chapter aims at understanding why corporal punishment is prevalent in Ghana. Providing a summary of the findings, the study ends with the question of whether corporal punishment of children should then be abolished in all cultural contexts in chapter seven. As my thesis seeks to demonstrate, corporal punishment of children ought to be abolished in all cultural contexts because corporal punishment is not effective, and even if it were effective, it infringes children's moral rights. The final chapter also includes a bibliography of all cited works.

CHAPTER 2

WHAT IS CORPORAL PUNISHMENT?

Introduction

Many people experience physical punishment first hand, while others witness or inflict it. Sometimes called corrective force, corporal punishment is perceived as normal in many circles, something that ought to be questioned, because children need to be corrected. For example, when our parents beat us for hitting our younger siblings; when a father knocks his son to go to bed, and when a mother smacks her two-year-old son, with the intention of stopping his outburst, because she does not want to buy him something.

Adrian Peterson, one of America's biggest NFL stars was indicted for hitting his son with a switch (Peterson vs Montgomery Jury 2014). Defending Peterson, Charles Barkley, a former American NBA star argued, whipping is normal, it is something "we do that all the time. "I'm a black guy... I'm from the south. Every black parent in the South is going to be in jail under those circumstances", Barkley argues (Chase 2014, 1).

Reacting to Barkley's argument, Chris Carter, another former NFL player, argued that corporal punishment is outdated, and stopping it should be an issue of concern not only amongst black communities, but also amongst all racial, ethnic, and religious backgrounds. "People believe in disciplining their children. ... My mom was wrong. She did the best she could, but she was wrong about some of that stuff she taught me. And I promised my kids I won't teach that mess to them. You can't beat a kid to make them do what they (i.e. parents) wanna do", Carter argued (Chase 2014, 1). It is not just the morality of corporal punishment that is being contested, whether it

achieves its intended aims is another issue. Carter seem to be questioning the moral and empirical claims of corporal punishment.

That parents have the right to discipline their children seems to be one of the few uncontroversial arguments in child ethics and juvenile justice. Donnelly (2001) points out that it is normally taken for granted that parents are not only permitted but also required to discipline their children. However, there is disagreement about what forms of punishment are appropriate and effective. Is corporal punishment ever an option? Which certain privileges should we deny children?

Over the past few decades, there have been rising concerns about corporal punishment as an appropriate and efficient means of child discipline. To address these moral and empirical questions we need a sound definition, one that would differentiate corporal punishment from other forms of punishment. This chapter considers the definition of corporal punishment. This helps us draw a distinction, if any, between discipline and punishment. Philosophers, lawyers, child psychologists, theologians, to name a few, often have different definitions of what constitutes discipline and punishment (See e.g. Kevin 1980, Grote 2006, Straus 1994, Marion 1995, Saunders and Goddard 2010). This chapter defines corporal punishment, as it will be understood in the rest of the study.

Discipline versus Punishment: a thin line?

There are several important tasks of parents and child rearers in child rearing. One of these many important tasks includes providing children with proper nutrition. How fast and well children grow, how long they may live, significantly depends on the quality of foods we feed them with (Elmhirst 2012). Aside proper nutrition, discipline is also one of the key and most essential assignments of parents and child rearers (Gershoff, Miller, and Holden 1999). Like proper nutrition, it is argued that disciplinary style has direct correlation to the kind of future adult a child

would become (Hoffman 1983). The expected outcome of the socialization process of childhood is creating self-disciplined, mannered, and honest adults (Twum-Danso 2013).

In other words, how parent X disciplines child Z for example plays a role in determining Z's compliance to instructions, and interpersonal behavior. Discipline also has either positive or negative effects on how child Z internalizes his parents' values (Gershoff et al 1999). To the extent that the kind of adults children would become significantly depends on the kind of discipline regime they are subjected to, parents often than not tend to prefer certain modes of discipline to others. The disciplinary techniques adopted to nurture children about proper conduct would in essence differ across communities, because parents would most likely adopt disciplinary method they deem fit. One of the however, commonly employed discipline strategies is *punishment* (Carey 1994).

Pressed to explain discipline, we may be tempted to respond that it is punishment (Hyman 1997, p. 5). Nevertheless, there is a significant difference between discipline and punishment. In my view, discipline is a moral responsibility of parents. It is therefore the use of punishment to discipline children that is the unending focus of controversy, and not child discipline per say, as it would be difficult for us to reject a theory that child discipline is a question of permissiveness (Ellison 2009). What follows is seeking answers to two independent questions: what does it mean to discipline someone, and what does it mean to punish someone?

Discipline

Seeking the definition of discipline in the dictionary, we find that it is often confused with punishment. It is therefore not surprising that most cultures approach child discipline as an avenue for punishment. The term discipline is etymologically rooted in an educational (teaching and

learning) setting (Peters 1966). Discipline has its root from the Latin word, *disciplina*, which is derived from the Latin concept *discipulus*, which means *disciple*. *Disciplina* is translated in English as, teaching and learning (Hyman 1997). Other translations of the word in English include, study, instructions, and training. The concept *discipulus* connotes a mentor-mentee like relationship, which clearly contrasts a master-slave relationship, which characterizes some parent-child relationships. Some parent-child relationships are governed by coercive submission of children under parents' authority. However, one distinctive feature of mentor-mentee relationship is freewill. Mentees, herein disciples, are those who freely, and void of any coercion follow and imitate their mentors (Hyman 1997). The two words derived from the concept, *disciplina* and *discipulus* do not carry any sense of coercion, force or penalty.

Although having traced the origin of the term discipline, it is important to recognize that, over the years the term has been defined differently with varying implications in the juvenile ethics and justice literature. There has been no agreed definition for it. Here, in what follows, I list a few of existing definitions. To begin with, in early works such as Madsen and Madsen (1972, 5) discipline is defined as a “process whereby certain relations (associations) are established. It is a way of behaving...first, it must be taught; secondly, it must be learned, i.e., internalized.” Similarly, to Madsen and Madsen's definition, Mitchell (1982, 2) defines discipline as “the slow, bit-by-bit, time consuming task of helping children see the sense in acting in a certain way.” Another definition of discipline worthy of consideration is Carey (2004, 1). According to Carey, discipline means, “correcting, shaping, or refining the mental facilities or moral character of a person.” Last but not least, disciple, in the words of Smith (2004, 29), “is the process of teaching children the values and normative behaviors of their society. It helps children become aware of the boundaries

of what acceptable and unacceptable behavior is, what is right and wrong, and how to relate to the world around them.”

Despite the difference in opinion as to how to define the term, there is little doubt that the original educational meaning of discipline runs through these differing views. Notably all the given definitions portray discipline as a teaching-learning phenomenon. The very importance of child discipline is to help children change spontaneous, random behavior(s) into controlled purposeful ones(s) (CEED 2004).

How to Discipline, What form should Discipline take?

To begin with, let us consider the scenarios below. In each situation, some form of admonishment is administered to correct of the supposed wrong, or make the children act in a particular way.

Scenario A

A four-year-old spills his glue on the ceramic tiled floor

Admonishment 1: teacher/parent tells him to pick up the glue and clean the mess. The parent explains that the glue is slippery, and that the child could have slipped and broken a limb

Admonishment 2: teacher/parent hits him, and tells him he is naughty

Scenario B

A one and half-year-old child returns from church. That morning at church, he and the other children played with white bouncing tennis balls. At home, he substitutes eggs for tennis balls. He runs to his mother and say mum these balls are not bouncing.

Admonishment 1: Mother clarifies his confusion. Explains to him that these are eggs, not tennis balls and finds him something he can play with. Then put the eggs out of his reach.

Admonishment 2: She shouts at the child and slaps the child's fingers.

While both methods in each scenario seek to correct the children in question, the first admonishments should be called discipline, because they emphasize teaching and the consequences of actions (Smith 2004). After all, the core goal of discipline is helping children to understand why some behaviors are acceptable and others are unacceptable. If indeed disciplining children merely means educating them about the difference between good and bad deeds, then we may run into a problem, situations where parents may combine both admonishments, as in the illustration below;

Scenario C

A four-year-old behaves rudely, he angrily screams 'fuck you' at a friend

Admonishment: parent pulls the child aside, hits him, and explains to him that those words are impolite. She gives him nice words to say, and ask him to go apologize to his friend

A question worth asking is whether we can combine admonishments in Scenarios A and B into one admonishment, as it looks like in the above scenario. I think that we should not combine both. Combining the two defeats the educational meaning of the term discipline. In fact, we tend to think that hitting children in order to correct them is also some form of education. Granting that physical and verbal chastisement are even forms of education, they would not however suffice the mentor-mentee requirement of discipline. The mentor-mentee relationship previously mention does not involve administering instructions under constant threat of punishment. Under the mentor-mentee educational setting, children learn morals void of infliction of physical, emotional or psychological costs, such as hitting, slapping, shouting, and so forth. Once an admonishment involves physical, emotional and psychological costs on children, it crosses the *child-discipline* boundary to *child-*

punishment. Child-discipline, I perceive it, under no circumstances, carry any sense of coercion, force, penalty, or infliction of pain. Ideally, we should discipline without punishment.

A possible objection to my view that we should discipline children without punishment would be what if children refuse to comply with the discipline of their own free choice, is punishment appropriate then? The cue I take from the above objection is whether corporal punishment could be the last option in child discipline. My response is simple. Indeed, children may sometimes refuse to comply with discipline of their own free choice, however, given children's low psychological abilities, they need more time to internalize norms, and differentiate between what is good and right. The achievement of this end state in children as we observed ideally requires administering instructions under no threat or infliction of physical or psychological pain, which could be defined as punishment. However given that administering instructions to children without coercion means that at some point, in certain situations, (for vaccinating children against some illness) we may coerce children to do certain things. Although child vaccination could involve infliction of physical pain, I do not see how coercing a child to take vaccination could be considered as bad or a punishment per se. So clearly, under certain circumstances the infliction of physical coercion or pain for children compliance is inevitable. Eventually, this thesis does not frown at all kinds of child coercion. As my conclusion on the subject of punishment will show, even if we may allow some kinds of coercion in child discipline, I hold the view that corporal punishment should not be one.

My position rests on the empirical findings which I shall discuss in the next chapter that, under no state of affair is corporal punishment of children efficacious. More also, if even corporal punishment is it an affront to children's moral right to security of the person. If children fail to comply, because of their moral right to security of the person which includes the right to non-

violent relationship with parents, corporal punishment is never an option. If one discipline technique does not work, we can try other options. However, as mentioned in the previous chapter, I am unable to propose and defend alternatives to corporal punishment. I reiterate my position to this objection much more in chapter five of this thesis.

Punishment

As with discipline, defining punishment is challenging. For example, philosophers, juvenile ethicists, pediatric psychologists, scientists, and lawyers define punishment differently. Dictionaries popularly define punishment as the infliction or imposition of a penalty in return for an offence, which arguably depicts some form of retributive transaction. The Cambridge Dictionary defines punishment as “making someone who has committed a wrong or a crime suffer, by ways of hurting them, or forcing them to pay money, or incarcerating them.”⁸ This is in line with how the vast majority of present day criminal laws and philosophers define the term. The renowned educational philosopher Peters’ (1966, 174) account of punishment, defines the term as “the intentional infliction of pain or unpleasantness on someone who has committed a breach of rules.” The underlying point here, one that differentiates punishment from other forms of discipline is the intentional infliction of pain, harm or unpleasantness. For the pain inflicted to be deemed morally right, it ought to be (i) only meted to perpetrators of wrongful acts, (ii) proportionate to wrong committed, and (iii) imposed by someone who has the legitimate right. In effect, (iii) if the pain imposed on (iii) innocent people or (iv.) disproportionate to wrong committed, it is unjust. This kind of justification of punishment is mostly called retributive justice. The take home point

⁸ *Cambridge Dictionary*, s.v. “punish,” accessed July 20, 2017, <http://dictionary.cambridge.org/dictionary/english/punish>

is that, most often, the definition and justification of punishment is premised on retributive justice.⁹ Retributive justification of punishment have been used to justify the moral permissiveness of corporal punishment of children. I provide a much detail discussion on retribution and corporal punishment in the next chapter, and therefore delay my thoughts on this line of reasoning as a justification of corporal punishment.

Punishment has also been defined scientifically as the application of a stimulus or consequence that reduces the behavior preceding it (Carey 1994, Hyman 1997). As an illustration, Hyman observes that if we admonish a child X once (by whatever means) to stop an attitude, the admonishment is considered punishment. A possible critique or problem with this view of punishment, as Hyman observes is, whether if the admonishment does not reduce the behavior, means it was not a punishment (Hyman 1997, 8). In this scientific model behavior, be reduced in two ways. First is the application of a pleasant stimulus, herein *appetitive punishment*. Appetitive punishment, Carey observes, involves removing something pleasant from the situation when the behavior occurs. Such methods may include the adoption of response cost techniques, or timeout reinforcement (Macmillan, Forness and Trumbull 1973, cited in Carey 1994). Another way of controlling the behavior involves the addition of something unpleasant, a type of punishment labelled as *aversive punishment*. Carey places physical punishments such as electric shocks in this category.

⁹ Retributive justice is a dominant philosophical idea that holds that the best response to an offence (criminal behavior) is administering proportionate punishment. The fundamental stand of retributivists is that once an offence is committed there should be punishment, when X violate the law; justice and morality require that X suffer in return. Punishment in the retributive sense involves administering suffering for its own sake, without reference to any instrumental goods such as deterrence or rehabilitation (see e.g. Walen 2016).

In the first typology, which is appetitive punishment, the penalty, that is, the consequence of X exhibiting behavior Y (say over speeding an allowed 80km/h), is the removal Z (say capping his car's speed at a 40km/h or charging him a speeding fine). This kind of punishment is what most behaviorists call *negative punishment*. Similarly, in the second type, the consequence of X taking the life of Y, is amputating the wrists of X. In both illustrations, the offenders are made to suffer or feel some discomfort. For example, in the first scenario, if driving at the allowed speed limit, 80km/h takes X one hour to get to work, it means he would now have to drive two hours before he gets to work. In what is likely X would have to sacrifice some activities, or better still use different mode of transportation. In the second scenario, after amputation X is limited in things he could previously do with his wrists.

For purposes of this study, punishment is conceptualized as coercion; a forceful correction of behavior, to have someone (a child) obey either by pleasant or repugnant means. It inflicts penalty for children's offenses. The aim of punishment is to cause pain or discomfort even if it is appetitive. This definition of punishment raises yet another important issue, *abuse*. To some, only aversive punishments are abusive. Capturing both appetitive and aversive punishments in the definition of punishment help us score whether punishment in general is abusive. While I maintain that punishment both appetitive or aversive could be abusive, the focus of this study is the moral justification of coercion with physical pain.

Is Punishment Abusive?

Consider the following example; a student submits late assignment. If student X has 10 points deducted as penalty for late paper submission, could we argue that X has been abused? Any philosophical commentary we make on whether X is abused or not depends on how we define abuse. The commonly used sense or indicator of abuse is the violent and monstrous treatment of a

person or animal. Going by this understanding of abuse, we can suggest that X could not be said to have been abused. However, if Professor X slaps student Y in the face, throws his paper in his face, then we may say Professor has been excessively reactive. In this sense, it could be said that the Professor abused his student. Might it not be that the professor could abuse the student without necessarily causing harm to the student? In other words, might it not be that we can abuse people without physically harming them?

Consider the following different scenario. The late paper policy for an introductory course is 10 points per day. X submits his paper two days after the submission deadline. Instead of deducting 20 points as penalty for X's late paper submission, the Professor deducts 25 points. In my mind, I think this constitute an abuse. The reason being that the action of the professor does not conform to the norms of the class, with regards to the communicated late policy. For the most part, the professor misapplied his powers. In this sense, when an action in part or whole deviates from wide known standards or norms it should be considered an abuse (Abrams 1980, 289). In what follows, I consider another scenario in which we could abuse people without necessarily treating them in violent and monstrous ways.

X is visually impaired student. Walking down the corridor to class, another student takes away X's visual aid and walking cane. X managed to enter the class safely, without tripping or hitting his head against the wall. Can we say because the student did not punch X, or X did not fall or hit his head against the wall he was not abused? If we admit that the student's action failed to respect the dignity of the blind student, as well not taking the interest of the blind student into consideration, then we can assert that the blind student was abused. The interest of the blind student in this matter includes walking to class safely. The scope of abuse among other things, I conceive, take different forms, and hence ought not to be limited to only violent actions against individuals. Regardless of

the consequences, that is, whether or not damage is caused, once treatment of people deviates from legitimate norms or standards, fails to affirm their dignity, as well as promoting their interests, the treatment in all its senses constitutes abuse.

The take home point is that, for a punishment to be abusive, we should judge it from the above descriptions. For a punishment to be abusive, it does not necessarily have to cause harm, physically or otherwise. If meted punishments do not recognize the dignity and interests of their subjects, we can assert that it was abusive. It is worth to reecho that in this study, I am much concerned about physical punishment, and whether that punishment constitutes abuse, a phenomenon most scholars distinguish from corporal punishment would be settled at the end of the study.

Corporal Punishment or Physical Abuse?

In the child ethics and juvenile justice literature, many have sought to draw a line between physical punishment¹⁰ and physical abuse (see e.g. Straus 1994, Gershoff 2002, and Lenta 2012). While the latter, as a matter of morality and law, is considered extreme and abusive, the former is considered normal in a parent-offspring relationship (Donnelly and Straus 2005). Most constitutions call corporal punishment as a justifiable corrective measure (see e.g. Article 13(2) of the Ghana's Children's Act 1998, Section 43. of Canada's Criminal Code). The thick line, most authors, and many laws seek to draw between the two is whether damages or injuries are caused by the punishment. If injuries are caused it called physical abuse (Straus 1994). Drawing a distinction between the two has led many philosophers and ethicists to crusade against physical abuse yet approve corporal punishment. Is physical abuse different from corporal punishment?

¹⁰ I use the terms corporal punishment and physical punishment synonymously, because both connotes exertion of physical force. Etymologically, corporal means physical.

When student X loses 10 points as a penalty for late assignment, it is not considered corporal punishment. Given this scenario, as against the etymology of the term corporal punishment, punishments including beating, hitting, spanking, paddling, to mention a few, are vivid examples of corporal punishment. Admittedly, when the definition of the aforementioned examples arise, it may be appealing to differentiate between them. Canning someone is different from hitting someone with a chair. However, the underlying point is that for a punishment to be considered corporal, it ought to be physically applied to induce discomfort or pain. The medium used in inflicting physical would essentially differ.

As established above, the fundamental rationale behind physical punishment is to induce pain, and discomfort, and not necessarily injury. However, in some cases the secondary aim of corporal punishment is to cause injury to serve as a reference point anytime the subject thinks of repeating a misbehavior¹¹. It is worth mentioning that in some cases the first aim of a parent is to hurt their child. Either first or secondary, once the aim is to inflict pain, either mild or severe, cause harm or not it is still physical punishment. In relation to what I label secondary aim of physical punishment, we can identify two forms; injurious and non-injurious corporal punishment. It appears that it is the injurious ones most scholars call assault, otherwise known as physical abuse, and conventionally held immoral. The natural question that rises from such an assertion is, how about physical punishments which do not cause injuries? Should we allow non-injurious physical punishments? In other words, does the distinction between physical punishment and physical abuse holds?

¹¹ It is worth emphasizing that the secondary aim of corporal of punishment as I call it, is not always intended. Injurious may be caused unintentionally. This we may call secondary consequence of corporal punishment.

My view is that both punishments are physically inflicted to (i) cause pain or discomfort on (ii) on the bodies of their subjects. The focus of this study is therefore not limited to only punishments that cause physical injury, but also others that do not cause physical injurious. Accordingly, corporal punishment as I conceptualize in this study refers to;

any physical punishment, regardless of the consequences, inflicted to cause physical pain, emotional or psychological discomfort to children, so as to correct and/or deter their misbehavior. Regardless of the consequences, I mean whether or not it causes injury.

This alternative definition remedies the conflict of whether the definition and moral justification of corporal punishment ought to be solely determined by whether or not it causes injuries. If the moral permissiveness of an action solely depends on its consequences, then we are suggesting that when robbers succeed in robbing their victims without hurting them, then the act was good enough, and justified. If we limit the definition and justification of corporal punishment of children to only punishments that cause injuries, then parents' actions would in essence count as congenial, even if injuries do not occur, provided parents do not intend the consequences. Whether or not harm or injury occurred, I think, should not be important than the intention and act itself. As in the example of the blind student, the fact that no harm or injury occurred does not justify the action of his subject. The action of the subject failed to acknowledge and respect the being of the blind student. Consequences should not be the sole criterion in defining and justifying parental actions in the child-parent relationship, as well as the adult-child relationship in general. A broad definition of corporal punishment ought to be one that captures the intentions of the act, the consequences of the act, as well the act itself. This what the above alternating definition capture.

CHAPTER 3

DEBATING CORPORAL PUNISHMENT: A REVIEW OF THE LITERATURE

Introduction

Corporal punishment has begun to receive considerable attention in the contemporary political theory literature, as well as in the juvenile ethics literature. While it is a highly debated issue in parenting ethics and contemporary political theory, corporal punishment remains an accepted phenomenon in many places throughout the world (Scarre 2003). Evidence suggests that, globally, three out of every four children face punitive discipline at home (UNICEF 2010). In some places physical punishment is been used as the conventional useful method of juvenile discipline. The assumption being that it is the appropriate way of seeking compliance from children. Despite pervasive beliefs that it is morally permissible and useful, studies have begun questioning the use of physical punishment (Durrant 2012).

With the ratification of the United Nation (UN)'s Convention on the Rights of the Child, in 1989, there was a rise in both academic and policy circles calling for a revision of the conventional perspective on corporal punishment. From the early 1990's several studies conducted established a negative correlation between physical punishment and child developments (Greven (1990), Wiche (1990), Gershoff, Miller, Turner and Finkelhor 1996, Holden and Parke (1999), and McCabe and Clark 1999). Despite the empirical findings of these early studies, and the adoption of the Convention on the Rights of the Child, corporal punishment is still prevalent at homes and schools world-wide. As of 2012 Corporal punishment has been legally banned in only 32 states (Lenta 2012). The conclusion here is that physical punishment is still regularly resorted to as a component of child discipline. Despite the increasing awareness of the danger of resorting to the

physical punishment of children, arguments have also been advanced which support this pain and sometimes injury inflicting phenomena (Lenta 2017). Two questions worthy of asking, whether corporal punishment works, and whether it works or not, is it morally defensible? These two questions are the primary questions this study attempts to answer.

In what follows, this chapter review some of the relevant works that attempt to answer the questions. Particularly, I bring into focus some of the empirical and philosophical arguments for and against corporal punishment. Following the empirical findings in this chapter, I shall close discussion on the question of whether corporal punishment works or not and dedicate the rest of the thesis analyzing the moral debate. I do so for three reasons. To start with, it is worthy to mention that I am not doing my own empirical studies. Another important reason is that, the empirical evidence fails, as it appears, it does not support corporal punishment. Lastly, even if corporal punishment was empirically supported, it is not morally defensible. I demonstrate this view at the end of the chapter.

Why Corporal Punishment? Philosophical Arguments for Corporal Punishment.

Philosophers have developed several competing theories, which attempt to answer the moral question of corporal punishment in their own manner. Each of these theories have their unique strengths and weaknesses. The dominant philosophical arguments made in favor of corporal punishment are the *consequentialist*, and *retributivist* justifications (see e.g. Benatar 1998, Allan 2002, and Scarre 2003). The above philosophical arguments justify corporal punishment by connecting their claims to the theories of punishment. Using the theories of punishment philosophers who support corporal punishment aim to show how physical punishment satisfies the theoretical requirements of punishment.

The main arguments are that, corporal punishment is justified either on grounds that it has positive effect on the well-being of children, or has some enormous financial benefits to the family, and society. Some authors also make claim that corporal punishment is effective vis-à-vis other alternatives. Aside from these, another philosophical argument in favor of corporal punishment is the *parental rights justification*- an argument which holds that parents have the right to discipline their offspring. For easy exploration, I review the arguments for corporal punishment under the three philosophical arguments; the consequentialist, retributivist, and parental right justifications. While some philosophers invoke solely one of the above philosophical views to justify corporal punishment, others resort to a mixed approach. Other philosophers also support their claims with empirical evidence. As I seek to do therefore, when necessary considerations would be drawn to other non-philosophical arguments that support the four identified philosophical justifications of corporal punishment.

Consequentialist Justifications

The most popular philosophical justification of corporal punishment is consequentialism. Consequentialism is a philosophical doctrine that holds that the morality of an action ought to be judged wholly by its consequences. In other words, Consequentialism is the view that an action is morally justifiable insofar as it brings about some overall good results from an impersonal stance (Scheffler 1998). The concept impersonal stance denotes detachment from one's epistemological doctrines, which include what one thinks or knows, in analysis of reality. Simply, impersonal stance means evaluation from impartial point of view. Amongst other things, the good on the consequentialist view include things such as instrumental benefits and utility maximization. In effect, if the consequence of an action leads to instrumental benefits or utility maximization then it is right. Determining the rightness on utility maximization is mostly called utilitarianism.

While some consequentialists justify corporal punishment solely on the instrumental benefits of punishment, others do so on utility maximization, or even a combination of the two. In what follows I shall deal with consequentialist justifications that fall under instrumental benefits of punishment.

Instrumental value argument

Some identified instrumental goods of punishment include deterrence, and rehabilitation or reformation. The idea is we have a moral obligation to produce well-behaved citizens, and one of the appropriate ways to achieve this end-state is through punishment. To that end, if people misbehave they ought to be punished to serve as deterrence and reformation from future repetition of the wrongdoing. Connecting this to corporal punishment of children, it is argued that corporal punishment deters children from behaving badly in the future and reforms their characters.

The primary argument made by consequentialists is that corporal punishment has deterrence value (Benatar 1998). Central to the deterrence argument for corporal punishment is a focus on the psychological and moral status of children. Although parental perceptions about, and interactions with children are culturally relative, a moral universal expectation from children, however, is compliance (Saunders and Goddard 2010). Described as demons, savages, and developing, children it is argued ought to be guided and influenced to conform to the cultural norms and values of the societies to which they are a part or would become a part of. The guiding myth is that if we restrain from spanking children they will be spoiled or may run wild (Straus 1994). Compared to other alternatives, consequentialists observe that physically punishing children can easily make them comply. If children are physically punished for noncompliance, it reforms their actions, and deters them from repeating their wrongdoings. One philosopher, Scarre (2003) who supports

corporal punishment of children even asserts that like with convicted criminals, physical punishment is useful in deterring and reforming children.

Another argument of a consequentialist nature is the instrumental assertion that corporal punishment has a positive impact on children. By positive impact, authors who defend this position assert that corporal punishment is good for the flourishing or wellbeing of children. One argument in this regard is that the psychological development of children is positively influenced by corporal punishment. The perception here is that physical punishment has lasting effects on children's psychological development, particularly if we start subjecting them to it at an early age (Straus 1994). As observed by Straus (1994, 9) this perception is premised on the belief that the deepest layers of children's personality are formed during infancy. In order that children grow to develop good personality it is good that we start subjecting them to physical punishment right from infancy. Some philosophers invoke this empirical viewpoint to argue that, corporal punishment, in spite of any counter effects, is useful in helping children flourish as children, and molding children into the kinds of adults it is good for them to become. In other words, the psychological good of physical punishment outweighs any corresponding negative psychological effect, defenders argue. Although painful, and even sometimes abusive, the wellbeing argument suggests that physical punishment is a necessary evil in child rearing (see e.g. Kramer 2014). It is a virtuous violence necessary for the well-being of children (Kramer 2014).

Kramer (2014) justifies the view that corporal punishment is a necessary evil and virtuous violence by proposing that, violence or pain is edified or justified if inflicted to enhance the welfare of its subjects. On page 102, Kramer (2014) makes two empirical analogies to prove this point. First he draws an analogy between physical punishment and the treatment of coma. He also compares physical punishment of children with the training military recruits go through. In the first analogy,

he observes that the surest way to save a patient from a permanent coma is subjecting the casualty to intense pain without his consent. It is only the infliction of severe pain that will make the victim resist us, and without this act of resistance we might not be able to prevent the coma. Kramer also compels us in the second analogy to accept that the intense pain exercises soldiers go through during recruitment are valuable, in that, the exercises enhance the soldiers' long-term resistance to things like pain and anxiety, to mention a few. The importance Kramer places on pain in these analogies has hugely influenced the justification of corporal punishment of children. Like the treatment of coma, and the hard training military recruits go through, physical punishment though painful and even sometimes abusive is seen as good for children, because it increases their overall welfare.

Utilitarian Justifications

In addition to the instrumental and retributive justifications, a significant number of works in the literature support corporal punishment from a utilitarian perspective (See e.g. Benatar 1998, Scarre 2003, Wilson 2001, and Clark 2004). Utilitarianism as a broad philosophical tradition varies from the classical utilitarianism introduced by Jeremy Bentham, John Stuart Mill, and Henry Sedgwick in the 18th and 19th centuries through to the contemporary utilitarianism established by Robert Nozick. For the sake of this study, utilitarianism is defined by the commitment to actions and or decisions that produce the greatest net satisfaction, hereinafter called maximum utility (Scheffler 1988). From a first look, the above definition seems to make utilitarianism and consequentialism identical. In fact, consequentialism and utilitarianism are closely related philosophical strands, each however rests on a different claim. The difference between the two is that, consequentialism focuses on the results of an action, while utilitarianism is about contrasting the utility of the consequences of an action.

As the other contending theories previously discussed have sought to do, utilitarians justify punishment on the aggregate effects punishment has on society. Utilitarian theories hold that the punishment likely to achieve maximum effectiveness, so to say, is the morally permitted one. Utilitarian theories thus, tend to commit themselves to a cost-benefit evaluation of alternating kinds of punishment. For example, comparing incapacitation to community service, utilitarian theories suggest that because imprisoned criminals are locked up and screened out from society unlike committing them to community work which leaves them part of society, the former is better than the latter. The reason being that the imprisoned are in part or wholly restrained from imposing further criminal activity on society. Some utilitarians are of the opinion that incapacitating the criminal deters others too.

Beating, Benatar (1998) puts it himself, 'is not a good in itself' (p. 253), but it does have comparative advantage over other forms of punishment. Here Benatar places corporal punishment in a scale of punishments. He compares assigning extra work and subjecting a student to community detention. Benatar, as well as Scarre (2003) assert that the former two have intrinsic values, and are pleasant, unlike the latter which is comparatively unpleasant. Benatar, particularly, is of the view that, here again I borrow his words, "while a child might not want to perform these activities, and so requiring them would be to inflict a hardship, one would be reinforcing the child's resistance to these practices. Not only would the child continue to dislike working or helping in the community, but he would come to associate these activities with punishment" (p. 253). The principal thesis is that; corporal punishment has a comparative advantage of unpleasantness which has efficacious deterrence quality.

Again, there are other utilitarian arguments which hold that the benefits of physical punishment outweigh the costs. In his recent work cited by Clark (2004), Wilson (2001, 411) argues that

corporal punishment is comparatively cheap, and easy to administer. Wilson like some utilitarians observes that in corporal punishment, there is only one financial cost, the paddle. Comparing paddling to detention, detaining a student may require the teacher to be paid for any extra hours. School may have to be opened longer than usual as well. If that is established, the utilitarian justification of corporal punishment here is that, corporal punishment brings about fast track feedback, and comes with lesser distractions (Clark 2004).

Retributivist Justifications

In addition to consequentialist theories, another influential philosophical justification for corporal punishment is the retributive theory. Scholars such as Newman (1983), and Benatar (1998) invoke retributive justice as a moral basis for corporal punishment. Retributive justice theories are what we call the *backward theories*, because they center on the idea that the justification of punishment lies in the past (Sobek 2011). The very fact that a wrong was committed in the past justifies the punishment of the guilty. Retributive theories, generally, rest on the premise that as members of a moral social setting (i.e. society/state), we have the moral right as well as moral duty to punish offenders. Offenders committed some wrong, which from the moral point of view deserves punishment (Sobek 2011). The simple thesis of retributivist theories, therefore is that, wrongdoers should be punished¹². Let's say Z is the price to pay for committing wrong Y. If X commits Y, Z should be inflicted on Y.

Also, retributive justice holds that wrongdoers deserve punishment because punishment has positive or intrinsic value. In other words, punishment is in itself morally good, void of any associated instrumental/consequential benefits it has for the future (Feldman 1995). Retributive

¹² The idea that the guilty ought to be punished is called the *positive desert claim* (Sobek 2011)

theories hold that it is morally wrong to apply disproportionate punishments (i.e. punishing people more than they deserve), and that it is wrong to punish the innocent¹³. To connect retributive theories to the justification of corporal punishment, we identify two kinds of justifications. Authors justify corporal punishment either by invoking the positive desert claim or the negative desert claim.

Generally, corporal punishment has been justified by applying the negative desert claim. For example, justifying why corporal punishment is morally permissible, Newman (1983), asserts that the guilty suffers corporal punishment. That is to say, from the negative desert claim standpoint, innocent children should not suffer physical punishment. Defending corporal punishment from the positive desert claim angle, Benatar (1998, 251) claim that if people generally deserve punishment, then children could be physically punished. That is to say, child X deserves punishment Y, if h/she is morally responsible for some wrong behaviour, say Z.

To support his claim, Benatar gives an illustration that if we detain a student at school as punishment, the detention puts burdens on the parents who were not parties to the wrongful act. One way the parents may share in the child's punishment is picking him/her at a later time. To make his argument compelling, Benatar continues that, not only is the picking up of the detainee at a later time inconvenient, if the parents have more than one child at the school, they may have to drive more than once to the school. The parents may choose to wait and pick all of them in one trip. But then the child's siblings wrongly suffer the punishment too. To Benatar, these

¹³ The ideas that the innocent should not be punished, as well as the wrongdoer should not be subjected to disproportionate punishment is called in retributive justice theories as *the negative desert claim* (Sobek 2011).

consequences are unjust because the innocent suffer, which is against the ideals of retributive justice.

Parental liberty versus the moral rights of children argument

Some philosophers rely on the unique characteristic of the child-rearing institution as moral grounds to justify corporal punishment (see e.g. Benatar 1998, Ahdar and Allan 2001, Archard 2004). The assertion is that, the primary parties involved in the corporal punishment institution (i.e. parents and children) possess unique rights and duties which matter in the moral justification of the institution. This line of philosophical justification of corporal punishment is called the rights-based theory. Rights-based theories justify corporal on two principal premises, which are the parent liberty argument, and the moral status of children argument.

Parents it is argued have the entitlement to raise their children in ways they deem fit. This view is in part attributed to the view that children are the property of their parents. Parents, according to the right-based defenders of corporal punishment have a moral duty to educate, nurture, and socialize their children. Pertinent to these duties also is disciplining them. Benatar (1998) asserts that parents are justified to physically punish their children if they see it as beneficial to their children. Thereby, any restraints on parents to perform their moral duties to their children, either partially or wholly, constitute immorality (Benatar 1998). Usually more simply, rights-based theorists¹⁴ posit that state influence or interference in family life, particularly with regards to child discipline is harmful to both parents and children. A vivid instance of this is the Canadian Foundation for Children, Youth and the Law vs. Canada (Attorney General) case in 2004. The Supreme Court of Canada's verdict on spanking children was that the police or civil courts

¹⁴ Hereinafter, I use rights-based theorists to refer to those who defend corporal punishment using the liberties of parents and the moral status of children as justification of corporal punishment.

intervention in family matters with regards to ‘reasonable’ correction of children impedes the resolution of problems within families, rather than promoting such self-reconciling avenues (Dwyer 2010, 191). Relying greatly on the moral rights and duties parents have towards their children, Ahdar and Allan (2001) for example argue against the ban of corporal punishment in New Zealand. The duo believes that banning corporal punishment in New Zealand is not only a moral wrong, but also constitutes an illegality, because parents have natural rights to raise constitutional rights to correct their children ways they deem fit.

Another normative premise of right-based theories is the moral status of children. The argument here is that any attempt to speak against corporal punishment on the grounds of rights of children is controversial, or implausible. Some rights-based theorists appeal to the idea that children do not possess the same moral rights as adults. In view of this the liberal moral requirement or idea that adults are not permitted to subject fellow adults to degrading punishment or coercive transactions does not apply to the adult-child relationships. This is anchored in the aforementioned liberal ideology that rights ought to be held by autonomous and rational agents¹⁵, wherein children lack those qualities. It appears, as we may not want to dispute, that children lack the cognitive know-how for making autonomous decisions. An important cause worth pursuing is establishing whether these qualities of children set limits on their right to be free coercive force. I specifically look at this subject in chapter 5.

a. Argument against Corporal Punishment

Corporal punishment is not effective

As noted previously, physical punishment is considered the best way to deter misbehavior, and also make children comply. Again, corporal punishment serves a good form of rehabilitation of

¹⁵ This liberal conception or basis of rights is also known as the *autonomous choice theory*.

offenders. Reviewing the literature, one argument against corporal punishment has been that it is less efficient in achieving the stated or intended goals. Past research such as Thorndike (1911, cited in Harvey 1912), Walters and Demkow (1963), Cheyne and Walters (1969), Crozier and Kartz (1979), Wesley (1979), Mitchell (1982), Patterson 1982, Cherry (1983), and recent empirical studies by Hyman (1990), Hyman (1997), Straus and Donnelly (2001), Durrant (2002, 2006, 2012), Gershoff (2002), Turner (2002), Sigsgaard (2005), Saunders and Goddard (2010), and Holden (2014) suggest that corporal punishment is not as effective as claimed in deterring and ensuring children compliance.

Studies on the effectiveness of physical punishment began with some empirical studies of it in animals. For example, Walters and Demkow (1963) authors of the one of the pioneering empirical works on corporal punishment, conducted a response inhibition study in children, a study on how children will learn not to do some deviant behavior. In this study they apply a scientific approach in which some physical punishment was inflicted on puppies. The conclusion was that “puppies who had been trained to avoid eating horsemeat by tapping them on the nose as they approached the tabooed food showed more resistance to temptation, when food-deprived and offered no alternative nutriment, than did puppies who had been tapped on the nose only after commencing to eat the tabooed meat” (Walters and Demkow 1963, 207). The relevance of this study is that is the timing of punishment enormously matters if it must be effective.

Applying this method to effectiveness of corporal punishment in some select children, Walters and Demkow observes response sequence between early-punished children who were subjected to aversive stimuli soon as they committed some deviant behaviour, as against children who were punished late after committing the same deviant behaviour. Walters and Demkow observed that behavioural alteration was more effective in the early-punished children than the late-punished

children. The conclusion of this particular study is that early punishment achieves significantly more effectiveness than late punishment. The suggestion is that the effectiveness of punishment in children requires two conditions. These are the timing and intensity of the punishment (Hyman 1997). In other words, punishment is not efficacious in altering behaviour unless it is inflicted spot on many times and with an increasing frequency (or intensity), which is by no means something we are able to do (Mercer 2010, 314). Although on few occasions these requirements are met (e.g. in schools and homes), in most cases, punishment of children is delayed.

As an illustration to point, Wesley (1969) shows how effective punishment should be inflicted immediately. In this example Wesley tells the story of a friend who confesses his experience with physical punishment. Wesley writes, “when his daughter was small, on three successive Sundays, she misbehaved at church. He (that is the parent confessing) spanked her when he got home. On the fourth Sunday after another episode of misbehavior, he decided to ask his daughter if she knew why she was being punished. Her reply, I don’t know Daddy, but it seems that every time I go to church, I get spanked” (p.33). Wesley in addition to his argument that delayed punishment is not effective also suggests that non-aggressive disciplinary techniques are more effective in bringing about behavioral change.

In his book published in 2001, *Beating the Devil out of Them*, Straus shows how non-aggressive disciplinary techniques achieve equal results as physical punishment. He cites the works of Day and Roberts (1983) as well as Roberts and Powers (1990) to support his view. In these studies, the sampled population were three-year-old children, who had been asked to sit in a corner. In one group, parents were allowed to spank their children who did not comply with sitting in the corner. The second group put their non-complying children behind a low plywood barrier and physically ensured that their children complied. The observation was that both methods achieved results.

Straus' suggests that there is no need to use physical punishment if keeping the children behind the plywood could produce the same results as spanking. The principal argument is that, if putting the children behind the barrier achieved equal results, then it is inaccurate to assert that children who were spanked complied because of the spanking (Straus 2001, 150-151).

Parents, it has been argued only physically punish children for convenience (Durrant 2012). The argument is that physical punishment becomes less effective in children over time as grow older (Wesley 1979, Hyman 1997, Straus 2001). As children grow old, one view is that we physically punish them for convenience. This is because at that stage, they somewhat become resistant to the punishment, and we feel we are losing control, so we only punish them in our quest to reestablish our control (Wesley 1979). In some children, the argument is that, the lesson learned from spanking is that they only have to comply or 'properly' behave if their parents are around (Straus 2001). An illustration of this view is the earlier example given by Hyman (1997). Hyman (1997) writes that, drivers who enjoy over-speeding will not speed if they are aware that a police officer is around but will if they are not being observed. Clinical psychologists also argue that, even if corporal punishment achieves some results, it is only short-lived (Durrant 2002).

A possible objection to arguments thus far could come from Straus' evocation of Day and Roberts (1983) as well as Roberts and Powers (1990) works about how non-aggressive disciplinary techniques (the one in which children were putting the children behind plywood) achieve equal results as physical punishment. The objection would be that what about coercion without physical pain? Although putting the children behind plywood achieved the same results as physical punishment, the act is physically coercive, which defies the definition and ideals of discipline. Should such non-aggressive techniques be morally permissible then? My response is limited, as my focus in this study is mainly on physical coercion which brings about physical or psychological

pain. To be sure, there are situations where disciplining could involve physical coercion, and psychological pain without physical pain, for example time out or yelling at a child (to take medication). I shall begin with the later scenario, yelling at a child to for example take medication. To begin with, I think that yelling at a child is not good, but if a child was rushing towards fire we may yell at them. At least for reasons that would save their lives. Unless we have strong moral reasons, like in life saving situations, non-aggressive and or coercive acts such as yelling at a child is morally wrong, for reasons I explain in chapter five.

On the plywood barrier scenario, indeed, putting the children behind the plywood to comply without necessarily hitting them is quit better than hitting them, as it involves no direct infliction of physical pain on children's bodies, which I am against. That notwithstanding, as observed in definition and application of child-discipline, once admonishments of children involve physical coercion, physical and psychological costs on children, they cross the child-discipline boundary. Speaking to the matter, putting children behind the plywood to comply to achieve the same result as hitting them involves physical coercion. Although similar to yelling at children, it does not involve direct infliction of physical pain, making the children sit in same position behind the plywood for longer hours would make them feel (physically) uncomfortable, as well as imposing psychological costs on them.

The psychological pain children behind the plywood face is no less significant than the physical pain felt by the children who were spanked. As we shall see shortly, if one of the psychological costs of corporal punishment is increase in suicide thoughts in some children, then it speaks volume of the adverse impact psychological pain have on children in general. I think that although in the plywood barrier admonishment versus spanking, the plywood barrier admonishment seems less aggressive, yet given the associated psychological pain (and physical discomfort), it is not good.

My interpretation of Hyman is that we can discipline children without necessarily hitting them. As I have maintained thus far, one key limitation of this study is identifying, proposing and justifying the alternatives to corporal punishment.

Corporal Punishment is Harmful and Abusive

Scholars who oppose corporal punishment also raise a cluster of psychological arguments to oppose it. Put differently, studies conducted by some scholars point out that corporal punishment has lasting adverse psychological effects on child development (See e.g. Turner and Finkelhor 1996, Hyman 1997, McCabe and Clark 1999, Gershoff 2002, Durrant 2006, Durrant and Ensom 2012, Saunders and Goddard 2010, David 2011, Taylor 2011, Gershoff 2002, Holden 2014, Zolotor 2014). For simplicity sake, I call the collectivity of arguments that hold that corporal punishment has negative psychological effects on children as the *harm view*. In what follows, I attempt to outline just a few of such arguments.

In *The Case against Spanking*, Irwin Hyman (1997) observes that consistent spanking results in the cultivation and perpetuation of fear, anger and aggression in children. In Hyman's study, he observes that regardless of the situational variables, physical punishment leads to negative self-esteem in children. Similar research by Murray Straus (2001) complements earlier research by Hyman. Straus suggests a positive correlation between physical punishment and the rate of depression and suicide of children, irrespective of the nature of physical punishment (i.e. either mild, or severe or non-injurious). One observation in chapter five of Straus' work is that suicidal thoughts reduces marginally with one episode of physical punishment during adolescence, but somewhat increases for three to five incidences of corporal punishment.

Elizabeth Gershoff (2002) is the author of another recent empirical work that sought to examine the associated behaviors, and or the psychological effects corporal punishment has on children.

Ten out of the eleven meta-analyses conducted on physical punishment suggest that corporal punishment leads to some undesirable attitudes in children. Gershoff (2002, 544) mentions attitudes and experiences such as; increased aggression, reduced moral internalization, anti-social attitudes¹⁶, and increased delinquency¹⁷. More to that, Gershoff's work indicates that corporal punishment leads to negative relationship between parents and children. Not only that, Gershoff suggests that corporal punishment poses serious risk to the mental health of children. Comparing and analyzing the literature on physical punishment of children the results are consistent and pointing to one fact that it has adverse effect on the psychological well-being of children. Reviewing the literature, no study has identified long-term positive effects of physical punishment on children (Durrant 2012).

One other argument psychologists and philosophers make against corporal punishment is that, corporal punishment is an unacceptable degrading phenomenon (See e.g. Gil 1970, Garbarino 1977, Myers 2006, Lenta 2012, Durrant and Ensom 2012, Zolotor 2014). The argument is that physical punishment is risky, because those inflicting corporal punishment are more likely to become abusive. Patrick Lenta (2012) shares the idea of Gershoff and Bitensky (2007) that corporal punishment serves as the fertile breeding room for physical abuse of children. In other words, it has been suggested that physical abuse starts as corporal punishment. This, Gershoff and Bitensky (2007) observe is the common trend that runs through child discipline at home by parents,

¹⁶ Another study that yielded similar results, particularly on corporal punishment and antisocial behavior in children is the controlled experiment by Straus, Sugarman, and Giles-Sims (1997). This controlled for antisocial behavior in children at home. Children between the ages of six and nine exhibited higher levels antisocial behaviors two years on after subjection to corporal punishment.

¹⁷ See also Hyman (1995). In this work, the author asserts that physical punishment teaches children that violence is justified option to settling interpersonal disputes. He observes that children subjected to physical punishment tend to assault other children

and at school by parents. Parents and teachers, according to Straus (2001) frequently cross the line of physical punishment to physical abuse. The resounding philosophical claim to this effect is that, people have a claim to be free from degrading punishments and physical attacks (Lenta 2001, 699).

b. Summary and Analysis

The purpose of the reviewing the literature review is illustrate where this study fits concerning the existing literature on the philosophical and empirical dimensions of corporal punishment. Reviewing the literature, some philosophical thinkers (e.g. Benatar 1998) justify corporal punishment either on consequentialist or retributive grounds. On consequentialist grounds, philosophical defenders of physical punishment argue that, corporal punishment has instrumental benefits, most important of which is deterrence. However, the retributivist justification is premised on the assumption that we have a moral duty to punish wrongdoers. Others who justify corporal punishment by making utilitarian claims hold that corporal punishment produces greater utility as compared to other alternatives. Utilitarian defenders of physical punishment assert that corporal punishment is cost effective, time efficient, and importantly punishes only the guilty. From rights theory perspective, we observe that some philosophers argue that parents have the entitlement to raise their children in ways they deem fit, and this include disciplining their offspring in ways they see useful. While some philosophers invoke solely one of the above philosophical views to justify corporal punishment, others resort to a mixed approach.

In what follows, I shall briefly demonstrate how the above justifications of corporal punishment are inconclusive. The above justifications either in part or wholly overlooked other moral consideration, which would render corporal punishment impermissible. If the failures of above philosophical pleadings could be substantiated to make an argument against corporal punishment

forceful, I shall advance an argument at the conclusion of this study that corporal punishment of children ought to be abolished everywhere.

To begin with, consequentialist arguments in favor of corporal punishment fail to consider the moral significance of pain. To defend punishment on consequentialist grounds, one must consider and or evaluate the good of the pain inflicted. Punishment in any consequential sense must achieve greater aggregate good than harm, which the philosophers who defend corporal punishment from this viewpoint fails to conclusively show. Retributive justifications of corporal punishment give little attention to the moral status question of children. It is unjust to punish a group of vulnerable ones who lack the skills to differentiate right from wrong.

Should we allow X because it produces Y results better than Z, *ceteris paribus*? Imagine amputating the hands or the fingers of robbers who steal, instead of incarcerating them. The idea is that amputating their hands is time and cost effective. One normative question insufficiently considered by utilitarian defenders of corporal punishment is whether utility maximization alone is a conclusive ground to justify corporal punishment.

Last in sequence, but not last in importance, the rights-based justification of corporal punishment fails to consider other contending rights theories. Justifying corporal punishment solely on children's lack of autonomy is too simplistic. These authors solely considered the parents' interest with insufficient regard to interest of children. Another issue worth reevaluating is the propertarian theory. Are children really the property of their parents? If children are properties of their parents, can they kill and or sell their children as slaves.

What I have sought to do so far is to outline a few of the many reasons it is important for us to revisit the moral permissiveness question of corporal punishment. The veracity of some of the philosophical claims, to mention here, the utilitarian and consequentialists justifications requires

empirical evidence. It is for this reason that this study adopts an empirical and philosophical approach to assess the permissiveness of corporal punishment. Although the empirical data suggest that corporal punishment most often than not achieve its stated goals. Justifying corporal punishments solely from an empirical dimension could be disastrous. The normative question is an important independent question of the empirical one. Consider the amputating illustration. If indeed amputating the hands of robbers works i.e. deter, could we argue because it is efficacious we should use it? Following the failure of the empirical evidence, I leave aside the empirical dimension of the corporal punishment (i.e. whether it works or not) and dedicate the rest of the thesis analyzing the moral debates.

CHAPTER 4

In Defense of Culture? Cultural Relativism and Corporal Punishment

Key Words: Cultural Relativism (CR), Moral Relativism (MR), Moral Objectivism (MO), Moral Universalism (MU).

Introduction

In making my case against corporal punishment, I am inclined to a philosophical position called *Universalism or Moral Universalism*- a view which holds that some ethics apply universally despite national, racial, cultural, sexual, religious difference, or any other distinguishing attribute (Kemerling 2011, Gowans 2016). One objection to this view is *Cultural relativism*- the argument that the justification of morality is contextual, and socially/culturally dependent (Tilley 2000). Protagonists of cultural relativism generally disfavor universalism for what is seen as a ‘unilateral imposition of cognition or morals upon others, either domestically or internationally’ (Westphal 2016, 127). Cultural relativists see universalism as ethnocentric, and instead stress respect for culture (hereinafter cultural diversity). This movement to respect norms and values of every society or culture, particularly in a postcolonial world, presents a disconcerting challenge to many ethical and moral debates in the philosophical literature (Brannigan 2000).

The question is whether cultural differences should be used to defend corporal punishment. From a cultural relativist perspective, some scholars defend that we should evaluate corporal punishment according to the prevailing norms and traditions of societies. The cultural defence of corporal punishment flows from the premise that there are for example different child rearing practices and religious preferences across the globe. Essentially what counts as abusive punishment would differ

from one society to the other. The principal thesis is that the rightness of corporal punishment is a matter of whether it is accepted in particular culture.

Using the Universalist theory, my aim in this chapter is to argue that corporal punishment under no cultural state of affairs is acceptable. I think that from the following grounds we can universally admonish corporal punishment and call for its universal abolition- (i) the universal dignity of humanity and, (ii) the universal effects of corporal punishment. The first argument proposes that irrespective of culture attributes, humans are the same in terms of moral value, and that our treatment of them should be equal. If humans are made up of same body systems, then they equally need physical, psychological and health security for survival. The second argument flows from the first one. If all humans are the same, then certain things can equally hurt them. The second argument in effect denies that the effects of corporal punishment are relative. These reasons I argue, outweigh cultural considerations when evaluating the moral permissiveness of corporal punishment. It is worth mentioning that I am not claiming that a particular culture is superior. Diversity is good; however it does not mean we should deviate from core moral principles that should govern humanity (Branningan 2000).

In what follows instead of presenting single definitions of the perfect ways in which the theories aforementioned have been understood, I provide alternating ways they have been defined. This allows readers with little or no theoretical foundation to appreciate the debate. Having discussed the main tenets of universalism as against cultural relativism, I then connect them to child ethics, and discussions of the relationship. In applying the two set of theories to child ethics we will see that a Universalist approach gives rise to more far convincing ways we should look at the moral permissibility of corporal punishment of children.

Cultural Relativism

Cultural relativism, like universalism, tries to settle what determines what is right or wrong. There are just about as many philosophers as there are scientific scholars such as postmodernists who employ contextual analysis of phenomenon in their works. That is, that behavioural explanations are, and ought to be explained by the code of accepted pattern of life in the context observed. Depending on which academic discipline is using this theoretical framework, cultural relativism goes by other names such as ethical relativism, agent relativism, moral relativism, moral liberalism, and not the least, Victorian morality (Tilley 2000). Any attempt to provide a single definition for cultural relativism thus seem difficult. The difficulty stems from the varying ways relativists present their views. However, there is a core idea that we cannot have a common set of rules to govern morality.

Societies differ in terms of history, traditions, objectives, beliefs, and so forth. One conception of relativism by social scientists is that norms and beliefs are central to explaining behaviour. In other words, if we want to study a particular phenomenon or behavior, we should situate the action in the norms and beliefs systems of where the action occurs (Tilley 2000). The thought is that, these cultural norms influence behaviour. Explaining phenomenon X requires that we holistically examine X with consideration to the history, mythology, problems and available opportunities, as well as the entire set of customs of the society in which X occurs. The argument is simple, if we fail to do so we may achieve little comprehension about other cultures. This kind of conceptualization of relativism is referred to as *methodological contextualization* within social science (See e.g. Byrne and Ragain 2009, Wright 2010). Another social scientists' conceptualization of cultural relativism, which is connected to methodological contextualization, is called *methodological neutralism*. This is the view that we can only arrive at an objective

conclusion if we study a particular action or culture by suppressing our moral convictions (Tilley 1998). Let us leave aside the question of whether we can truly set aside our personal moral convictions in moral debates and move to some more philosophical discussion of cultural relativism.

A more philosophical definition and application of cultural relativism requires familiarity with the following terms used by relativists;

Cultural Norms: “refers to rules that exist within a group, including how to behave in social situations; not laws, but can be important to people” (McKinnon ed. 2015, 326).

Cultural Rights: “rights of members of a cultural group to engage in practices that are central to their culture and/or the rights of a cultural group to take measures to protect its continued existence. These rights can take the form of exemptions from requirements imposed on all other persons and/or groups” (McKinnon ed. 2015, 326).

In moral philosophy, cultural relativism is rooted in a theory called *moral relativism*. Moral relativism suggests that our moral judgments are true or false only if they are made relative to some peculiar viewpoint, and that no epistemological position is thus exclusively superior to all others (Westacott, Internet Encyclopadia of Philosophy). The basic notion here is that morality is both subjective and conventional.¹⁸ With moral relativism as their foundation, cultural relativists make the claim that morality (i.e. right and wrong) varies with cultural norms, as different cultures have different moral principles. There are moral disagreements about defining for example what

¹⁸ The notion of *Subjectivity* means that right or wrong is relative to the individual. Morality depends on what the individual in question thinks is (morally) right or wrong. On the other hand, *Conventionalism* means that morality rests on the conventional way of life of the society being studied. i.e. what the society in question thinks counts as right or wrong is supreme. (Westacott, Internet Encyclopadia of Philosophy).

is 'valuable', and these disagreements are said to be more important than any consensus there may be (Gowans 2016).

Another important philosophical variation on cultural relativism is the *moral liberalism argument*, which has connections with *cultural imperialism*. Usually used in a derogatory sense, cultural imperialism is a postcolonial theory which highlights the imposition and perpetuation of some foreign epistemology or civilization on a people (Chrisman 2003). The rise of moral liberalism calls to oppose such influences. Moral liberalists assert, there are no universal moral requirements (Tilley 1998). We ought to respect the freedom, equality and well-being of others, particularly in a 'postcolonial liberal world'. Moral liberalists argue that, members of a cultural group (have the rights, or are) permitted to engage in any practices, as long as the practices are central to their culture, and also serve as ways to protect its continued existence (Mookherjee in McKinnon ed. 2015). Defenders of cultural relativism hold that one important group right is cultural rights. Cultural rights, defenders argue, shields a group from (i) internal restrictions (i.e. a claim against members of its own group), and (ii) external interference (i.e. a claim against the wider society). The idea is that we ought to protect and respect the autonomy of groups, allowing them to hold any set of inherited customs and beliefs (Kymlicka 1989).

Despite difference between views, for simplicity sake we can assert that the common grounds of cultural relative theories are that (i) the rightness or wrongness of a moral percept is an exclusive matter for cultural determination and (ii) there is no basis to say that a set of cultural values are better than those of another (McKinnon ed. 2015, 326). Further, we may summarize the theoretical position of cultural relativism as holding that customs ought not to be considered abusive if they are compatible with the cultural standards as revered by the natives (Renteln 2010). A strong

importance of relativism, relativists assert, is that it promotes cultural diversity which persuades us to understand and appreciate different cultures on their own terms.

Moral Universalism

Moral universalism is the view that there are objective truths or some universally valid moral claims. While cultural relativism's foundation is moral relativism, moral Universalist theories rest on what moral philosophy calls *moral objectivism*. In sharp contrast to moral relativism, moral objectivism starts from a premise that moral questions have objectively correct answers (Alexander and Moore 2016). It goes on to appeal that what is wrong, or right is not subjective, neither is it conventional. What is right or wrong does not depend on the interpretation of the individual or society in focus. It is the view that moral facts could be treated as physical facts (Westacott). For example, Westacott (Internet Encyclopaedia of Philosophy) writes, just as the claim that seawater is salty is close to undisputable, the claim that men should not have sexual affairs with their mothers or daughters is objectively true. Also, just as the claim that the absence of oxygen in the human body leads to irreversible brain cells damage is irrefutable, the claim that we should not take the lives of others is objectively true.

Moral objectivism comes in the form all Xs are Ys, or saying something like, if X is wrong, it is wrong everywhere. Let's assume X to be lies. The moral principle then would be a claim that telling lies is wrong, and that we should not tell lie under any condition, never for confidential, self-protection, self-development reasons. Moral objectivist theories (though there are many formulations) come in two principal folds; *deontological theories*, and *consequentialist theories*. Although both theories are objectivist in approach, I am more sympathetic to the former, which guides my argument.

Per its etymology, deontological theories are otherwise known as the *duty-based theories*.¹⁹ Deontology is a kind of normative theory which deals with questions of which human choices are morally required, which choices should be allowed, and which forbidden (Audi 2006). The substantial appeal of duty-based theories is that we have a moral duty not to choose what is good over what is right (Alexander and Moore 2016). In other words, our actions are not justified in the face of any associated benefits (i.e. good consequences), but rather how they conform to a moral norm. Any choice or action at odds with the moral norm should be morally wrong. Those moral norms ought to be obeyed by every moral agent. Immanuel Kant for instance argues that the morality of our actions ought to be judged according to his *categorical imperative*. The categorical imperative is a moral principle which holds that we should act in ways such that we always treat humanity, whether in ourselves or other persons never as means, but as ends in themselves (Audi 2006). The permissible action therefore is the one in compliance with the moral law, which in turn is binding on all groups, regardless of their passions and desires. The formulation of humanity as possessing some sort of moral rights as being means and ends in themselves overrides any other relative moral considerations.

Consequential theories, on the other hand suggests that the permissibility of an act (i.e. whether an act is right or wrong) is a determinate of its consequences (Mark 2016). Put differently, in order to explain what is right or wrong, an evaluation of the pros and cons (herein effects) of the act is imperative. If the pros outweigh the cons, we have a duty to commit to that act. In view of their central appeal to evaluative facts, they are frequently called consequentialist theories. The most common consequentialist theory is utilitarianism; whose most famous defender was John Mill.

¹⁹ See <https://plato.stanford.edu/entries/ethics-deontological/> for etymology of deontological theories.

Utilitarianism as previously explained in chapter three²⁰ holds that, the right thing to do in any given situation, is one likely to produce the greatest net satisfaction or happiness (Scheffler 1988). Any act other than the one which maximizes the greatest benefit is wrong. This theory is Universalist because in every society, and point in time, this duty of choosing the great utility maximizing acts applies everywhere.

The question of which of the above theories about morality is best remains complicated. In fact, all the theories make plausible arguments, and could at any point in time be invoked to support an argument depending on what moral issue is in contention. For example, on the subject of global warming, some will claim that moral debate about invention and usage off automobile could be best evaluated from consequentialist theories. This line of thought is implicit in the ‘anti-green movement’s position on global warming. However, with regards to what is being debated in our case, the moral permissibility of corporal punishment, I think that we should evaluate it on deontological moral principles rather than on consequentialist principles. I am not proposing that consequentialist theories are wrong per say. With their strong position on outcome (s) as the very justification of morality, if invoked in the moral debate about corporal punishment of children, it would be either empirically indefensible or philosophically over-simplistic.

To begin with, consequentialists argue that the permissiveness of corporal punishment rests on some assumed instrumental benefits such as deterrence, rehabilitation, and advancement of psychological wellbeing of children. On the contrary, as observed in the previous chapters, the empirical evidence suggests that corporal punishment is not only ineffective, but also detrimental to the physical and psychological wellbeing of children. The internalization of moral values is by no means achieved by corporal punishment. Granted that corporal punishment even achieve its

²⁰ See utilitarian justification of corporal punishment in Chapter three.

proponents stated aims, it is too simplistic for one to argue that X is justified in so far as it produces outcome Y. Such a proposition or conclusion would be close to suggesting that if amputating the penis of rapists deters rape, we should allow it.

Taking seriously, justifying corporal punishment of children from consequentialist theories as I have sought to demonstrate is ill-starred, hence the need for a far more plausible moral theory. I am of the view that deontological universal theories provide far convincing framework from which we can evaluate the moral permissiveness of corporal punishment of children. The cultural diversity and cultural rights arguments of relativists are not enough to defend it. Defending my position, I first provide a brief sketch of cultural relativist arguments in support of corporal punishment. In the final part, I lay out why I think a cultural relativist argument in favour of corporal punishment is not enough.

Cultural defense of Corporal Punishment

The cultural defense of corporal punishment holds that its rightness is a matter of whether it is accepted in a particular culture. Although corporal punishment occurs in most societies, it is encouraged more in some cultures, and not others, thus making its prevalence culturally dependent (Ember 2005). The observation is that social-historical variables (also known as the *socio-cultural capital*), impact the use of corporal punishment (Xu, Tung, Dunaway 2000). And that our commitment and attachment to norms and customs can morally justify corporal punishment. Therefore, it is when we treat corporal punishment as a cultural artefact that we can establish a normative basis for it (Gershoff 2002). The cultural contextualization of corporal punishment has thus been a key argument for its defenders. Indeed, we may descriptively say that this is how X is done here. But the normative question is whether that should be the case. I leave this important

question aside for now and discuss some of the cultural relativist arguments of corporal punishment. For simplicity sake I group cultural relative arguments into the following three broad categories; the different modes of child rearing argument, cultural meanings of corporal punishment, and religious preference and attitudes

i. The different modes of child rearing

A salient trend in cultural relativists' justification of corporal punishment is to cite the parent-child rearing context in which corporal punishment occurs. The idea is that parent-child relationship differs across individual ethnic groups (Ripoll-Nunez and Rohner 2006). This line of argument subscribes to the idea the parent-child relationship is in part or wholly determined by the model of socialization (i.e. education) persistent in a particular culture. By virtue of the brute fact that societies have unique systems of socializing their members, it is true that by default they will have varying ways of inculcating the conventional codes of ethics in their members (Renteln 2010). With parents as the primary agents of socializing, it is their moral responsibility to ensure they instruct their children using the usual *modus operandi* - without fear and compromise, so that the children will fit well in their own community.

In accordance to the varying socialization methods persistent in cultures, relativists who study transcultural parent-child relationship assert the conceptions of childhood and parenthood differ. In the socialization process, societies denote peculiar entitlements and obligations to children and parents (e.g. Larzelere, Silver and Polite 1997). That some cultural discipline systems are more geared towards attaining children's obedience than establishing children's autonomy (Xu, Tung, and Dunaway 2000, 607). Put differently, one parent-child relationship may seem more autocratic, and deemed unacceptable by an outsider. When a parent's right to spank, for example, in the name of education is rooted in the socially accepted authoritarian socialization model, deserting the right

to spank is seen by parents and society at large as renunciation of parental authority and responsibility, which in turn compromises ‘communitarian strengths’ (Larzelere, Silver and Polite 1997, 14). Collins and Coltrane (1995) for example view corporal punishment as a family ritual which fosters solidarity; it establishes a bond between parents and children (Cited in Xu, Tung, and Dunaway 2000). It is by this that societies’ perception of corporal punishment would also virally differ (Renteln 2010).

ii. Cultural Meanings of Corporal Punishment

Another cultural defence of corporal punishment is an argument that the definition of reasonable punishment varies across societies. Ethnographers as well as some philosophers assert that cultural epistemology and how societies hold people accountable for wrongs defines the reasonable punishment practices (Donnelly and Straus 2005). Punishments viewed as acceptable by one society may be defined as abusive by another. The point here is that, the very definition of what counts as reasonable punishment is a culturally relative issue.

Larzelere, Silver and Polite (1997, 14) illustrates this by contrasting European-Americans perceptions about corporal punishment to those of African-Americans. The authors project that African-Americans link corporal punishment with child-centred childrearing and parental concern, and do not perceive it as abusive²¹. On the contrary, European-Americans connect corporal punishment with neglect of parental love and sees it as a source of abuse. African-American’s consistently resorting to physical punishment is accounted for by their belief that corporal punishment is efficacious and loving.

Consistent with the above perspectives, some also assert that children’s understanding of physical punishment depends on the cultural setting which it occurs (Lansford 2010). If corporal

²¹ See example Peterson vs. Montgomery Jury case previously discussed in Chapter 2.

punishment is a convention in a culture, instead of seeing it as abuse children view it as something important for their own interest (Twum-Danso 2013). Illustrating this point Twum-Danso (2013, 479) writes that some Ghanaian pupils accept that physical punishment helps their parents to raise them up to become responsible. If children in such communities see corporal punishment is in their best interests, an outsider would have a greater task to make a case against corporal punishment, and it poses more problem for jurisprudence in (liberal) multicultural states²² (Renteln 2010).

iii. Religious Preference and Attitudes

Cultural differences and views about corporal punishment are also profoundly embedded in the religious preference, attitudes and beliefs of groups (Ellison, Bartkowski and Segal 1996, Hyman 1997, Lansford 2010). Some experts mentioned above argue that to understand corporal punishment and its prevalence, we ought to carefully analyse the religious setting in which it occurs. The idea is that religious institutions have importantly unique sets of beliefs, and practices which moderate the lives of its members (Xu, Tung, and Dunaway 2000). We should consider the belief systems of people's religion as they directly and/or indirectly influence the parent-child and adult-child relationships. To ascertain the moral permissiveness of a particular mode of parent-child relationship, we ought to look at questions such as, whether the parents involved are members of the religious group, whether the religion has peculiar childrearing practices, and whether parents are/were motivated by the religious traditions in their relationships with their children (Renteln 2010).

²² See for example the case of a Toronto court versus a Trinidadian parent in Renteln (2010, 269). In this case, fifteen-year-old Lucy, daughter of Trinidadian family, had been hit with a cord for refusing to go to school. Although the judge established that the parents exercised excessive force, Lucy asserted that "physical punishment was something she and her siblings were accustomed to".

Based on a common belief that transgressors of moral laws (i.e. God's commandments) ought to be punished Christians for example generally adopt a more retributivist disciplinary approach, which by their nature are also mostly 'illiberal' (Xu, Tung, and Dunaway 2000). In their work which primarily looked at corporal punishment from religious perspective, Ellison, Bartkowski and Segal (1996) identifies that there is strong correlation between the retributive justification of punishment and child-rearing practices amongst Christians. Many Christian parents have been found to use fierce autocratic discipline: this is mostly predominant amongst Fundamentalists or Conservative Protestants (Lansford 2010, 94). Fundamentalists are Christians who believe that the teachings of the Bible should under no circumstance be compromised. Taking beliefs in the Bible to the maximum, Fundamentalists argue that there are some prescribed ways every Christian should live. Fundamentalists have far reaching trust and resort to the Bible as the basic guide for Christians as (i) it is the word of God which, (ii) contains answers to human's essential problems, and thus requires obedience to the words therein.

In discussions about corporal punishment, Fundamentalists per their strong attachment to the scriptures frequently quote some biblical passages from the books of Proverbs and Hebrews that they are required to use corporal punishment²³. The influence of such biblical quotations

²³ Some of the biblical quotations include the following:

- i. He who spares the rod hates his son, but he who loves him is diligent to discipline him (Proverbs 13: 24, RSV).
- ii. Folly is bound up in the heart of a child, but the rod of discipline drives it far from him (Proverbs 22:15, RSV).
- iii. Do not withhold discipline from a child; if you beat him with a rod, he will not die. If you beat him with the rod you will save his life from Sheol (Proverbs 23: 13, 14 RSV).
- iv. The rod and reproof give wisdom, but a child left to himself brings shame to his mother (Proverbs 29:15, RSV)
- v. If you are left without discipline, in which all have participated, then you are illegitimate children and not sons. Besides this, we have had earthly fathers to discipline us and we respected them. Shall we not much more be subject to the Father of spirits and live? For they

particularly the one in Proverbs 13:24 lays the bedrock for fundamentalists' parenting principle of 'spare the rod and spoil the child' (Ripoll-Nunez and Rohner 2006, 222). In fact, personally, growing up in an Adventist (Protestant) Christian home, children are made to believe that corporal punishment is appropriate as Jesus Christ (the founder of Christianity) in Mathew 21:12 made himself a whip out of cords to beat people even in the Temple. The idea is that if we (i.e. Adventists) are imitating Jesus Christ, we have to emulate him wholly: we are justified in doing anything Jesus did himself. Conservative parents tend to favor corporal punishment more than non-conservative Christians for very reasons that corporal punishment is a duty to God, and also deters children (Xu, Tung, and Dunaway 2000, Renteln 2010). On this account, parents do not see severe and frequent use of corporal punishment as abominable, neither do they see as it as parental rejection or lack of parental love (Ripoll-Nunez and Rohner 2006)²⁴.

Summarizing, if we accept the theoretical position of cultural relativists on corporal punishment, we identify one principal theme; that community societal factors influence the moral justification of corporal punishment. Any normative analysis of corporal punishment requires that we view corporal punishment in relation to the cultural norms (including the parental-child relationship, cultural meanings of abusive, and religious beliefs) accepted by participants of the culture and the child in question. Reason being that, every society has a benchmark for identifying and punishing behaviors that fall outside the conventional child rearing domain (Renteln 2010). Insofar as societies have unique child- training systems, an abusive and or unjustified child rearing practice

disciplined us for a short time at their pleasure, but he disciplines us for our good, that we may share his holiness. For the moment all discipline seems painful rather than pleasant; later it yields the peaceful fruit of righteousness to those who have been trained by it (Hebrews 12: 8-11, RSV).

²⁴ See Ripoll-Nunez and Rohner (2006, 227) for other religious perspectives on corporal punishment. The authors also discuss how (parents) belief in supernatural forces influence the resort to corporal punishment in Bahamas.

is the one which diverges from the internal norms of the group. Cultural relativists thus argue that culture perpetuates, and even justifies (child) abuse. The difficult task for the Universalist is to show how corporal punishment should be evaluated according to Universalist moral norms that are insensitive to cultural differences.

Moving Towards a Consensus that Corporal Punishment Should Be Judged from Universal Moral Terms

Should we evaluate corporal punishment according to relativist or Universalist moral norms? Responding to this question I begin by making two observations. First, that diversity is good, and that cultural rights are also indeed important group right in a fast-growing multicultural global world. For example, granting that every 80 lb child needs an average of 40 grams of protein a day, depending on what options are available, parents are justified to opt for the protein source peculiar to their taste and local preference. Similarly, if we all accept that one fundamental moral right is equality of all humans, and that humans are naturally born free, then it is valid to assert that they may observe any religion, culture of their choice without any prejudice. On the standard way of thinking about cultural rights and toleration, it may be impermissible for the state to for example deny parents from teaching their children their language. Accordingly, no scholar (particularly philosophers and law makers) working in the field of juvenile ethics and justice can overlook the relevance of culture in discourse on parent and children upbringing ethics. Diversity is good, that does not however mean we should deviate from indispensable moral principles that govern how should treat people. For the following two contentions, I think that cultural differences are not good grounds for justifying corporal punishment;

i. Universal Human Dignity: Establishing Universal Standards for Children

Establishing that corporal punishment of children should be evaluated on a universal moral basis is difficult for the reasons given above. In spite of the difficulty, however, I think that we can establish a persuasive argument by granting two things.

Nearly all philosophers accept that in considering our relations with living entities (i.e. our actions that affect them) we must recognize them for their own sake, such that in dealing with them their integrity and interests are upheld- this is what we call *moral status* (Dwyer 2011, 9). Moral obligations are derived from moral status. So, the normative idea behind Kant's categorical imperative is that a being with moral status should not be treated according to our whims and caprices. Our actions towards them in every facet of law, public policy, and personal morality requires that we attend to their wellbeing (Audi 2006, Dwyer 2011). For example, if we ascribe moral status to trees, then this ascription requires that we must treat them with maximum moral dignity.

If beings have some moral status, then humans occupy an agreeably intrinsic moral status as well²⁵. We are morally valuable because of our status as humans. Admittedly, we come into the world with varying characteristics, for example, different eye, body and hair colour, different body size, different genetic compositions, cognitive abilities, talents, and abilities etc. Notwithstanding, no matter how and what form we come, our inherent quality as beings is not compromised- this I prefer to call the *moral value* of humanity. Some common biological, physical, and psychology traits exists amongst all human. The fact that X and Y were born with some physical defects do

²⁵ Note here that I used the word descriptive because I do not want to entangle myself with the issue of whether all beings (all creatures) have intrinsic value as not all theorists agree on that. It is however a near fact that all theorists accord humans moral status.

not erode their quality as humans. Suppose we have a task to categorize creatures according to their inherent natural qualities, I presume we would not label X and Y as trees or some guinea pigs. Their first identity or recognition will be human beings and may be for our own convenience (as we regretfully do) prefix their identities with some adjectives like ‘disabled’ and hence call them disabled human beings. The moral value argument I seek to advance proposes that all humans after birth irrespective of any cultural attribute have equal moral status (Dywer 2011), and ought to be seen as such and treated as such.²⁶

Consider an example, imagine X number of vehicles are produced by a manufacturer per annum. If the vehicles are produced by the same producer will the intrinsic value of the vehicle change if bought by different consumers from different countries? Admittedly the economic worth (price) will vary according to the prevailing economic conditions such as exchange rate, import duties etc. However, these factors do not change the basic intrinsic value of the vehicles produced by a singular producer. No matter where any of the vehicles end up certain things apply equally to them. For example, all must be fueled and maintained. Any add on value like expensive decorative rims do not change the basic requirements of upkeep, nor does where the car is driven.

At this point, all I am trying to illustrate by way of analogy is that all humans are equal beings invented by a common creator, God. If all humans are made in a similar fashion (having the same brain functioning, heart functioning, blood system, same body metabolism, and each requiring food and water to ensure survival, as well liable to a one-time death), then no matter any cultural

²⁶ At this point I anticipate the question of what about foetuses? I am personally sympathetic to the philosophical view that unborn foetuses have some moral status. I however do not mention this for two reasons; first, that I do not have enough space in this study to defend that position, and lastly because this study particularly concerns children who exist outside the womb.

attributes wherever we live we are neither superior nor inferior to one another. Just as in the vehicles examples, we have the same inherent value. After all, we gain most cultural attributes after birth. Until one is born, there is no argument for socialization. Without the former, the latter is non-existent or non-negotiable; think of purchasing a domestic room door keys without a door. In so far as all cultural attributes are conferred or starts after birth, then favouring the moral value argument over the cultural value argument is in order. If we grant the above, while following Kant's categorical imperative theory, we would arrive the conclusion that, (i) all children are humans, and if they are humans then (ii) they are ends in themselves²⁷ which means that, (iii) we have an obligation to treat them as such, and not as means to our cultural ends. Essentially, groups have the rights to pursue any cultural or religious goals, yet they must recognise the pre-eminence and prominence of human dignity.

(ii) Universal effects of Corporal Punishment

One cultural relative argument in favor of corporal punishment is that the definition of what is demeaning is culturally variable. But if humans have psychological and physical universals as I have argued, then it follows that certain kinds of acts can universally harm them (Norezayam and Heine 2005). Humans for example, feel pain universally. Conceivably, humans depending on their natural body make-up, and where they live may build some resistance to certain things like diseases. Indeed, what is harmful to us can vary, as some people may have built immunities to

²⁷ Apparently, an argument that children are ends may be disfavoured by others, on grounds that children lack the agency to enjoy that status. Granting without admitting that children do not possess the so-called agency as ends does not also mean that they are say guinea pigs, or teddy bears. As I have demonstrated all humans irrespective of any man-made attribute enjoys equal universal inherent status as beings. Admittedly this explanation may not suffice the objection. I explore this objection elsewhere in the next chapter.

things that would have serious effects on others. For example, an expatriate visiting a malaria society is more likely to suffer the disease, as compared to indigenes who have built resistance to the plasmodium parasites. However, an intoxication or a seizure of breath could equally kill both of them. If we accept that some kinds of acts equally harm humans, then an argument that corporal punishment has universal effects on its subjects is tenable. If two children (one from Africa and the other Europe) are treated simultaneously or even at different times in the same way, the corresponding effects on them will be the universal *ceteris paribus*. Here, I conceptualise effects not only in an idealized injurious sense, rather a composite of both injuries and pain or discomfort. It is worth mentioning however that the central argument I seek to make does not suggest that people have to equally feel the adverse effects of something to make the act wrong. I am thus not by extension arguing that children ought to equally feel the effects of corporal punishment (e.g. pain) to make corporal punishment morally wrong. My argument is simple, corporal has adverse effects which harm children.

Thinking of humans as liable to universal harms, the controversial female genital mutilation comes to mind. Imagine here two girls, one from a conventional female genital mutilation (FGM) community, and the other an unconventional FGM community. If these two girls undergo the forcefully removal of their external female genitalia, they would equally feel the discomfort or pain. Consider also the health hazard of smoking. Smoking irrespective of individual body mechanisms reduces the overall human health. Irrespective of who (of course admitting that some people are more prone to experiencing advance health risk) and where it is smoked, tobacco if smoked injects the same effects (if positive or negative) in the body. How do the above illustrations connect to corporal punishment?

Now, think of two grade four children (one in country/culture A and the other in country/culture B) given five strokes each by a specially designed stroking machine for committing some offence. We assume here the offence are of similar nature, and the machine inflicts X amount of pain per stroke. More also each stroke commensurate to a Y chance of injury or harm. Given this, it means each child receives 5X pain and 5Y injury/harm chance. If the result is valid, then we can persuasively argue that stroking can equally harm children. And as observed in the preceding chapters, the empirical evidence is remarkably telling, very clear and consistent about the adverse effects corporal punishment has on children. (Turner and Finkelhor 1996, Hyman 1997, Gershoff 2002, Durrant 2006, and Durrant and Ensom 2012). Some of these adverse effects as we observed include emotional distress, anxiety, reflexive aggression, and so forth. These effects of corporal punishment do not only occur to children in a particular cultural group, they are universal. An illustration of this point is in order.

Think of the above example, where the two children were stroked by the specially designed stroking machine. We observed in the example that other things been equal, if the children are stroked five times each by the machine, each child receives 5X pain and 5Y injury/harm chance. If we assume that Y is reflexive aggression of the adverse effects of physical punishment, then the children irrespective of their country or culture stand equal chance of becoming reflexively aggressive. Regardless of the situational variables, given the universal biological make up of humans, corporal punishment leads to universal effects.

In fact, if we perceive reflexive aggression in the above illustration as a medical condition, treatment of the two children would in essence not differ. Take the treatment of malaria for example. Treatment of malaria requires universal medical guidelines. If treatment of two malaria

patients would differ, it would be for variables such as gender and age difference (e.g. children, pregnant woman), causative difference (i.e. species of the malaria), or severity of their conditions (i.e. complicated versus uncomplicated). In any case, however, the treatment of two patients from different countries or cultures with complicated malaria would be the same. Why? The simple reason is, they are made of the same human body systems. What I am trying to do way of analogy is to advance an argument that, corporal punishment leads to universal effects in children. And even if the effects of physical punishment would vary, it would be as a function of factors such as frequency, intensity or severity and, age.

Testing for the variations in the effects of physical punishment in children, Gershoff (2000) for example observes that corporal punishment is more detrimental to the mental health of children aged six and above, than those below 6 years. Gershoff's observation, in my opinion, only suggests that some children are more prone to certain effects of corporal punishment than others. The observation hence does not suggest that the mental effects corporal punishment would have on children six years and above in one country or culture would be any different from children of the same age in another country or culture. Plausibly, depending on the frequency and intensity of corporal punishment, some children would have serious mental effects than others both across and within cultures. This does not take away the effects corporal punishment has on their mental health is universal. The only difference is that; one's condition deteriorates faster than the other. If we conduct a reversibility test by randomly assigning children six years and above to parents, the mental effects corporal punishment would have on children six years and above in one country or culture would be any different from children of the same age in another country or culture. Taking the effects of smoking for example, depending on who is smoking what, at what rate it's been consumed, the associated effects could be relative. However, conducting a reversibility test by

swapping the hearts and lungs of two people smoking the same substance at the same frequency would prove that, cultural variables would not impede the equal universal effects smoking would have on them. Corporal punishment under any cultural condition has universal effects on the physical and psychological wellbeing on children.

a. Conclusion

Taking corporal punishment seriously as a universal phenomenon entails a critical scrutiny of the somewhat dominating cultural relative arguments in favor of the act. We observe how theorists, scholars, and professionals in favour of a relativism craft that given the several ways societies look in terms of history, traditions, objectives, beliefs, etc., we cannot have a common set of rules to govern morality. The idea of parent-child relationship variation, religious variations as well as the relative definition of effects are central to the moral justification of corporal punishment of children, relativists hold. Relativists who support corporal punishment thus appeal that establishing a universal guide for treatment of children is problematic, as groups have unique cultural guides in raising their children. Any child ethics values that falls within the cultural parameters of a particular society is justified, so long as members of the society agrees to it.

Responding to the question of whether these aforementioned differences justifies corporal punishment, I concede that diversity is valuable. That notwithstanding, on two principal grounds I think that we can universally admonish corporal punishment, and hence call for its universal abolition. I argued that all humans are the same in terms their moral value. The argument flows from the view that humans are made up same body systems (e.g. circulatory system, nervous system, lymphatic system, respiratory system, and skeletal system), requiring physical, psychological and health security. Granted then, we owe people certain things irrespective of their

cultural attributes, age, or colour, by virtue of their moral status as human. The moral status of children in view of the above premise, I argued is universally equal, and treatment of them should be equal across space. The second argument denies that the effects of corporal punishment are relative. I showed that if all humans are the same, then certain things can equally harm them. For example, I argued that all humans equally feel pain, and we equally suffer damage to the heart or brain through similar actions. If we accept this, then an argument that corporal punishment has universal effects on children is plausible. If these two arguments are coherent, then we may in that light call for its universal abolition. The chapter that follows makes the universal call for abolition of corporal punishment more persuasive.

CHAPTER 5

Competing Rights: Corporal Punishment from a Rights Based Perspective

Keywords: children's rights, parental rights, autonomous choice theory, interest theory

Introduction

As we observed earlier, corporal punishment of children is often morally defended by reference to consequentialist, retributivist, and utilitarian justifications of punishment. One other defence of corporal punishment is what we explored in the preceding chapter, cultural relativism. As I have argued thus far, the consequentialist, retributivist, and cultural relativist justifications are implausibly narrow, and not good moral grounds to justify corporal punishment of children. One alternating way I think we should normatively justify corporal punishment of children is evaluating it from a rights-based approach—that is, if people have a right to corporal punishment. Could corporal punishment be a right of parents or guardians, or children? This question has three key components: (i) do parents have the right to corporally punish children or not? (ii) do children have rights to be corporally punished and, (iii) do children have rights not to be physically punished? What this chapter essentially does is examining corporal punishment from a rights-based perspective, however, focusing on the three questions stated above.

I must remark however that on the question of rights and how they relate to corporal punishment, my argument concern moral, and not legal rights. In fact, in discussion of rights, the relation between morality and codified laws cannot be downplayed. Like legal rights, moral ideal of rights typically specifies the areas of conduct we are or not permitted to do, not all moral rights are however legally given. Albeit, it is not flattering to assert that the legitimacy and perpetuation of codified law rest on the moral values and aspirations of society (Turner 2002). The moral values

society uphold as time evolves mostly tend to be codified as state or national laws. Invariably, monumental changes in societal values and aspirations often result in changes to codified laws. Speaking of morality and its impact on law, my view and hope are, given that some pertinent legal rights are provided for on moral considerations, the legality of corporal punishment of children be also given maximum moral redress.

This chapter has two sections and a conclusion. The first part examines rights of parents and children. To address the normative issues of what and how much rights parents and children have, text focuses on two theories of right. These are the will and interest theory of rights. In examining these two moral theories of rights, I shall defend a position that the will theory is not a good theory of rights. I am thus favorably disposed to the interest theory of rights for reasons I explain later in the chapter. The second part tends to examine how and whether the interest theory of rights justifies corporal punishment of children. The striking observation from this examination would be that although parents generously given, have interest in the wellbeing of their children, which includes interest in the kind of adult their children become. Taking the kind of future adult parents want their children to become, they commit much resources in the form of time and money to the raising of their children. To be sure, things such as good and healthy nutrition, solid academic foundations, and so forth make children's live go well. Contrastingly, I think that corporal punishment does not let children's live go well: it undermines children's personal security.

My position rests on the *proviso* that personal security is an unnegotiable welfare right of humankind (Lenta 2017), which includes children. In whatever form corporal punishment takes, it infringes on the personal security of children. Unless we have strong contending moral claims, we are under obligation not to trespass this important welfare right of others, who in our case are children. Indeed, if trespassing personal security rights would bring maximum benefits to the right-

holder, then intuitively and rationally we may be justified violating that right. Following this persuasive moral proviso, this chapter projects the view that there are no such justifiable moral grounds for violating this important welfare right of children, and that, corporal punishment of children is normatively unjust. Children, I seek to conclude, have the right not to be corporally punished.

Parents' and Children's Rights

Examining parents' and children's rights requires a brief discussion of what moral rights are. Our understanding of rights influences which actions we deem to be permissible. Individuals' rights, in abstract, consists of what are owed to people given their role or status (Wenar 2015). Possessing a right can mean having, (i) a valid claim, (ii) a privilege or liberty, as well as (iii) power to do and not to do something. Persons possessing rights also have some form of (iv.) immunity, which limits people's action towards them. Since rights give directions concerning human relations, rights correlate with, (v) duties held by others. The above summarised, rights, in a very foundational sense concerns just or fair arrangement and shape the structure of human relationship (Finnis 1980, 206 cited in Wenar 2015). It is worth mentioning that the above accounts of rights are general, and do not specify the content of rights. This common understanding of rights is called the 'Hohfeldian incidents' or 'system' of rights (Hohfeld 1919). Any more specific rights will contain elements of the above characteristics.

Having identified the general understanding of what moral rights are, the next important philosophical and moral question is, how do right bearers come to have the rights they have? This is, what is/are the justificatory ground(s) for attributing moral rights? Two contemporary theories are prominent; the *choice*, and *interest* theory of rights. Each of these theories provide unique understanding of rights, how right holders acquire rights, and what rights do for their bearers.

Controversy surrounds which of the two theories presents the better justification for rights. To throw light on, but not to pretend to settle this controversy, I only examine the main tenants of both, and thereafter discuss how proponents and antagonists of corporal punishment use them in their arguments. The main sticking point in these theories, as we shall observe is whether children have rights.

choice theory of rights

The choice theory of rights otherwise known as will theory of rights perceive rights as a combination of claims and powers to reinforce or waive the correlative duties (Reily 2015). Based on this, the key requirement for the possession of rights, according to will theorists is autonomy. What rights do, on the choice theory is to secure and perpetuate autonomy (Hart 1982). Protecting individual's choice and/or autonomy put others under obligation. What the above description of rights mean is that non-autonomous agents, who are by their characteristics considered 'powerless' to exercise control over their own decisions are denied rights (Steiner 1994, 245).

This description of rights, to some extent, is not exhaustive. Given the emphasis on the capacity to exercise choice as the key to possessing rights, children, like other groups of humans such as foetuses, and the severely mentally disabled would not have moral rights. The choice model proposes a scenario in which children enter a world where moral thought about them is that superior autonomous human beings can treat them as means to some ends. In what is the case, any argument that children have rights against corporal punishment from their parents and older adults such as their guardians would be implausible under the will theory.

Without doubt, if choice theory was the only moral rights theory then that argument will hold. Indeed, we cannot make claim to things we do not have, so if children do not have rights, then they

cannot have immunity rights against corporal punishment. Considering that there are other contending moral theories of rights, it will be hapless for us to mark such a conclusion. I think for example that a case for children's right against corporal punishment would be plausible on the interest theory of rights.

interest theory of rights

On the interest theory of rights, the central commitment is to the idea that rights have connections with bettering our lives. It is in view of this that it is otherwise called the welfare or benefit theory of rights (McCormick 1982, Raz 1984). From the interest theory perspective, individuals are said to have rights if they possess vital interests, which make them live minimally decent human life (Wenar 2015). Because the purpose of rights is to promote the welfare of right holders, others are under obligation, both in positive and negative ways, in respect of that/those interest (s) (Raz 1984). Explaining this, as positive duty, others ought to provide for that which makes life of the right holder go well. In contrast, negative duty means non-interference, desisting from that which do not make life of right holder go well. For example, if X was an interest right of Y, as a positive duty, Z ought to provide X for Y. As a negative duty, Z ought to desist from dealing with Y in ways that undermine Y's X.

I think this account of rights is more plausible and exhaustive vis-à-vis choice theory. The reason being that non-autonomous agents denied moral rights on the choice theory could be attributed significant moral rights, given the emphasis on interest as the key to the acquisition of moral rights. On this alternating way of looking at rights, if the focus is shifted from individuals possessing autonomy to protecting individuals' needs, then children like adults possess some fundamental moral rights which may have not been wholly recognised in law. The import of the word fundamental explains the significance and implication of moral rights as guarantees owed

individuals, wherein the justification of such guarantees is grounded in the benefits the guarantees bring to that individual, and not to others. In other words, the guarantees should exclusively make the life of the individual go well. So, even if the guarantees bring about direct or indirect benefits to third-parties, such third-party beneficiaries have no claim to the guarantees.

Focused upon their physical and psychological needs, few would argue for example that it is ideationally implausible for children like adults to have moral (positive) rights to be fed and cared for by their parents (McCormick 1982). If psychological security is a something humans need to flourish, then as a negative right, children like any other human ought to be free from transactions that undermine their psychological wellbeing. If we export this idea from moral philosophy into legal thought (for example, the tort of battery), it is expedient that the moral things that make children lives go well be fundamentally provided for and furthered by law. Children are humans and citizens too (Newell 2001). Regrettably, most legal systems are ‘morally deficient’. The moral deficiency stems from the fact that there is nearly nothing like children’s rights in some or perhaps many legal systems (McCormick 1976, 306). It is this legal oversight of children’s moral rights, that I suppose, explains why corporal punishment is morally and legally accepted in most societies. It would be in any case technically difficult to seek legal redress for claims which are not provided and furthered by law.

Before proceeding into the second part of the chapter, it is ideal to make some important concession. Although I aim to promote the efforts of advancing children’s well-being both morally and legally, I acknowledge the conceptual and linguistic frailty of interest rights theory, particularly, it’s application in children’s rights discourse. For example, I think it would be conceptually weak to defend a position that the fact that X has an interest in Y, or X thinks that Y would make his/her life go better means X has or should have a right to Y. Like Dwyer (1998,

2010), I think that the intensity of a desire or interest does not, in itself, justify a right. Granting such a position is nothing more than diving onto the world of slippery slope arguments. It is in view of the above conceptual frailty of the interest theory of rights that I think that rights such as those pertaining to sex, marriage, refusing medical treatments and so forth, should not be for example morally and legally ascribed to children, even if we grant the above rights as interest rights. The emphasis is always on the interests being at least fundamental enough to make the lives of right-holders go well. I do not see how, and not in a position to defend marriage or sex, as things that make children's lives go well.

Arguments that children ought to be attributed some or all the rights mentioned above would not have the normative strength to defend such a position, even if one were an ardent child liberationist. Any such argument in other words would be weak, yet controversial. It would be fatal for us to argue that because the basis of granting rights on the interest rights perspective is possessing some interest means if some ten-year-old children want to have sex we should allow them. Not all rights in the form of interests as I have sought to argue should be given children. Fairly, only older children and adults should be granted some or all the above rights. On the contrary, however, I think that, there should be no difficulty for us to morally and or legally ascribe to children some basic (welfare) rights, such as the right to personal security they have in common with adults.

I am not prescribing that adults and children are identical in all facets of rights. My view is that, children by virtue of their qualities as humans are essentially same as adults, at least in the moral sense. As I argued in chapter four, if all humans are made of the same body systems, then no human is superior to another. If I am right, then children and adults are of the same moral value. The significant difference children and adults is the cognitive ability disparity, which the choice theory propagates against children as right-holders. Despite children's limited cognitive ability,

their moral dignity as human are not reduced *qua* children. Like Brennan and Nogge (1997, 3), I think that two persons (herein adults and children) can have “equal moral *consideration* without having the same package of moral (interest) rights and duties”. All I seek to argue is that on ascribing fundamental welfare rights to moral agents who have the same inherent value, the underlying rule ought to be no victimization, in either direction. Welfare rights if conferred on children would impose correlative duties on parents, care-givers and adults in general which the state must recognise in law (McCormick 1976). In what follows, I attempt to demonstrate how the interest theory could be consistently applied in the discourse on corporal punishment of children.

Interest Theory of Rights and Corporal Punishment of Children

The interest theory of rights demonstrated above is quite difficult and controversial concept, so is its application to corporal punishment of children. Despite the apparent drawbacks of the interest theory, I think there is a more consistent and progressive way we could apply the theory to corporal punishment of children. Let’s begin this way; given that children are the subjects, and parents/guardians being objects of corporal punishment, we may proceed to ask the following questions from interest rights perspective, whether (i) parents/guardians have the right to corporally punish children or not? (ii) Children have rights to be corporally punished and, (iii) children have rights not to be physically punished? The above questions could be asked in two simplified ways: (vi) is corporal punishment in the interest of parents/guardians or, (v) children?

The following could/would be possible answers to the above questions;

- a. Parents/guardians would/should have a right to corporal punishment because they have recognizable/significant interest (s) in corporal punishment

- b. Parents/guardians would/should not have a right to corporal punishment because they do not have recognisable/significant interest (s) in corporal punishment
- c. Children would/should have right to be corporally punished because they have significant interest (s) in corporal punishment. In other words, children have right to corporal punishment because it makes their lives go well
- d. Children would/should not have right to corporal punishment because they lack significant interest (s) to be corporally punished. In simple terms, children would/should not have right to corporal punishment because it makes their lives go well

The very important question, one which guides the rest of the discussion then is, which of the above answers is more plausible, if not the best. Like every other normative contention, the burden of proof essentially rests on anyone who makes a claim. Now, for the rest of the chapter, I defend the position that corporal punishment of children is not normatively justified. My position rests on the conjuncture that parents have no right to it, and as a matter of fact, children have a right not to be corporally punished. For sustenance of children's personal security, children should not be corporally punished. The arguments I make substantially rests on the idea that personal security is a fundamental interest right for all human beings. Clearly, my position is a hybrid of answers b and d. In defending my position, I shall contest answers a and c- the possible counterclaim that parents/guardians have the right to corporal punishment because they have significant interest (s) in corporal punishment, or corporal punishment is in children's interest.

That Parent/Guardians have the right to Corporal Punishment

The interest theory view of rights focuses on fundamental interests- those which are extremely important for human flourishing. Such interests, detailed above, generate rights and correlative duties. If we link the ‘possession of fundamental interest’ thesis of the interest theory of rights to corporal punishment of children, for people to have a right to it, it is required that they possess significant interests in the act which makes their lives go well. The question worth pursuing then is, whether parents have fundamental interests worthy of the right to corporally punish their children. Any attempt to answer this question would in fact start nowhere better than examining the parent-child relationship. There must be some worthy parental interests, if any, in the parent-child relationship which would grant parents corporal punishment right.

To start with, in the parent-child relationship, there are quite a number of overlapping interests which generate correlative rights and duties; parents have a few, so do children (Brighouse and Swift 2006). Although there are quite a number of other interests, the most talked about fundamental interests in the child-parent relationship are psychological wellbeing, forging and sustenance of intimate relationship, as well as the quest and liberty to seek things that bring satisfaction and meaning to life (see e.g. Schoeman 1980, Rachel 1997, Brighouse and Swift 2006, 2010, Archard and Benatar 2010). There are different narratives about how the above-mentioned interests generate rights and duties. What I purposely seek to do is provide a brief sketch of how these interests are generally thought to produce rights and duties.

Starting with psychological wellbeing as a significant interest in the parent-child relationship, children’s development and life prospects are thought to be heavily dependent on the care and

attention they receive from their parents (Archard and Macleod 2003).²⁸ Children tend to flourish (physically, emotionally and mentally) as children, and as future autonomous agents capable of pursuing valuable ends in life through the unconditional care, and focused attention they receive from their parents. Because children's development and life prospects are shaped by the primary care and attention received from their parents, the absence of such critical things undermine their flourishing as children. This fundamental interest is thought to generate duties on parents to for example feed, clothe, shelter, as well as provide safe and serene parenting atmosphere for children (Brighouse and Swift 2006).

What interests do parents have in the parent-child relationship that generate correlative rights and duties? Although children's wellbeing put parents under obligation, parents, generally thought have exclusive interest in parenting- that is, the various actions directed at satisfying children's the fundamental interests (Brighouse and Swift 2010). In other words, if the aforementioned fundamental interests of children do not even put parents under obligation in respect of those interests, the freedom to pursue things that bring meaning and satisfaction to life make adults want to become parents. Being a parent makes people feel fulfilled as adults. As parents commit to the challenge of caring, guidance and socialization of their children, they see their interest in becoming parents as fulfilled (Brighouse and Swift 2006, 99).

Although the act of parenting is challenging yet adults have interest in it. There is one unique feature of the parent-child relationship which is thought to influence adults' quest in becoming parents- this is intimacy (Rachel 1997). Simply put, it is the interest parents have in forging intimate relationships that makes them venture into the yet challenging act of parenting. The

²⁸ It is worth mentioning that parents as used here includes both biological and custodial ones

argument flows this way; the drive to maximize personal life satisfaction leads rational moral agents, humans, into relationships, either contractual or otherwise. Such interests could be tangible or intangible. Calling it as human's 'root in life', Schoeman (1980, 14) posits that the most important gratifying relationships are those which involve personal commitments to others. And one such relationship is loving relationships (Rachels 1997): loving others and being loved in return is a significant aspect a satisfying human life, probably, the highest human good (Cottingham 1984, 369). Relying on the above assumption, some philosophers and child ethicists argue that the parent-child relationship is a microcosm of such relationships (Schoeman 1980, Cottingham 1984). The suggestion is that, as significant interest, the intimacy parents and children share in the parent-child relationship promote psychological wellbeing of parents, and even children (Rachel 1997, 223)

A defense of psychological wellbeing as fundamental interest for parents and children in the parent-child relationship starts with the assertion that like some other relationships, intimacy is essential to the family relationship (Archard and Macleod 2003). Deep and unconditional attachment between parents and their offspring are vital goods for the wellbeing of parents and children. The deep and unconditional relationship between parents and their children is believed to be unique and guaranteed in no other setting apart from the parent-child relationship. Unlike other intimate relationships, the unfettered trust and love parents receive from their children, the delight and pleasure in knowing children's perspective about the world, and so forth make adults develop interest in such relationship, or desire to become parents (Brighouse and Swift 2006, 99). On the part of children, receiving unconditional care, intimate and focused attention from their parents are significant to their cognitive and emotional health. The absence of such unconditional care and attention has converse effects on children's development. The mental, emotional, and

moral development of children are products of the quality of intimacy they enjoy from their parents (Brighouse and Swift 2010). It is through the composition of parenting, and the forging and maintenance of intimacy with their children that parents experience meaning and satisfaction in life. When these conditions are realised, parents are thought to satisfy yet one fundamental human interest, psychological well-being, which is a trade-off between the challenges and rewards of parenting (Brighouse and Swift 2006). The associated psychological wellbeing generally rests on the (empirical) assumption that meaningful and satisfying relationships, as well as fulfilling obligations are important factors in maximizing psychological wellbeing (see e.g. Dodge, Daly, Jan and Sanders 2012, Rook and Hogan 1984).

The discussion thus far presupposes two conclusions. First, that because the condition for attribution of rights on the interest theory perspective is the possession of significant interests, there are strong reasons for us to argue that, not only do parents have rights as parents (i.e. being adults), the interests they have in the parent-child relationship generate additional rights to them over their children.²⁹ In other words, the interest in parent-child relationship supports the conclusion that parents ought to be allowed the liberty to raise their children (Brighouse and Swift 2006). The above projection further suggests a second conclusion that because interest rights generate correlative duties, this condition requires non-inference in the parent-child relationship. Intrusion into the parent-child relationship leads to non-realization of many goods of parenthood (Schoeman 1980).

²⁹ The assertion that parents have rights as parents means outside the parent-child relationship, parents in themselves possess significant interests which make their lives go well not as being parents but as humans. I perceive for example psychological security as fundamental right parents would have as humans even if the family institution or the parent-child relationship never existed.

Using intimacy as an example, Schoeman explains how parents could lose many of the goods of parenthood through intrusion in the parent-child relationship. The thought is that because people have the freedom to pursue things which bring meaning to their lives, they have the discretion to determine intimate relationships on their own terms. Recognition of parties' sovereignty over the terms of intimate relationship requires respect for their privacy and autonomy. Explaining this point, Schoeman believes that in intimate relationships, interference from third parties hampers the conditions for intimacy, which is detrimental to the success of the relationship. The belief is that, just like any relationship, if outsiders dictate the terms of an intimate relationship, parties cannot be sure of their own views or motives, or those of the person they are in relationship with. So, in what is the case, given that intimacy is a crucial interest which grants rights (to parents), the community and state at large have an interest in promoting intimate relationships (which includes the parent-child relationship) by way of non-interference. If the society intrude in this sphere of human life, parents will become puppets of society's will, which in effect dwindle the goods of the parent-child relationship (Schoeman 1980). Realising all that has been discussed hitherto in essence improve the psychological wellbeing of persons who commit to parenting.

How it is that these interests are thought to generate parental rights to corporal punishment? It is striking to mention that there are some philosophers as child ethicists who think that parents have the right to corporally punish their children (See e.g. Benatar 1998, Gershoff 2002). Their argument appears in the form as, parents' interests in the parent-child relationship and the condition of non-interference grant parents' entitlements over the lives of their children. This includes broad discretion of parents in raising children how they see fit (Downie and Randall 1997). According to proponents of this view, if parents' interests in the parent-child relationship generates parental rights over children, then it is immoral for us to dictate how parents ought to

raise their children. It is not only because parents are inventors of their own children that grant those rights over their offspring, rather, it is the fact that it is only when parents make personal contributions to the lives of their children that parents satisfy their interests or achieve the goods of parenting (Archard and Benatar 2010). This thesis tends to assert that if parents have discretion over parent-child relationship then they are justified in instituting whatever discipline system they deem fit for their children, which includes corporal punishment. Consequently, if the state interferes in this yet significant aspect of the parent-child relationship, then it is violating the liberty interests of parents (Benatar 1998, 253). I call this the *parental entitlement thesis*.

In some sense, the paternalistic intervention thesis of the parental entitlement argument is admissible. Indeed, parents are and should be responsible for their offspring, unless delegated to others such as teachers. That notwithstanding, I think it is the biological and psychological status of children that grant parental control. The biological and psychological make up of children make them dependent on adults, thus, some parental discretion over children's lives are in the best interest of children and should be allowed (Freeman 1983). For example, I think that parents should have discretion over decisions concerning the education and health of their children, until a time when the children become relatively matured. Education and health security are in the best interests of children. That young children do not have the autonomous agency or rational capacity to for example make informed decisions concerning their health, is an inescapable feature of early childhood. Conceivably, even older children lack the experience to maintain their lives on their

own. So, depending on the nature of what is at stake, for example on matters discussed above, parental discretion could be justified with reference to both parental and children interests.³⁰

On the issue of corporal punishment, I do not think it is possible to defend corporal punishment of children based on liberty interest of parents, either in relative or absolute terms. The fact that parents have some liberties based on their interests in child rearing does not mean they are morally justified to treat children any how they like. Such a conclusion if allowed creates a situation of absolutism as being portrayed by the *proprietary* theory, where by parents could treat their children as mere means, even to the extent of selling them as slaves.³¹ Subjecting children to the mercies of the whim and caprice of parents ruins the dignity of human life. In the previous chapter I argued that moral beings should be treated as ends in themselves. It is morally wrong to conceive children as property. If children are human beings too as Newell (1989) rightly argues, how then can other human beings own them? Although children lack autonomous and rational capacities to fully or independently author their lives on their own, they have fundamental interests that ought to be protected and respected (McCormick 1984, Feinberg 1980, and Lenta 2017). Not only do I

³⁰ To be clear, I must say that I have reservations with the idea of absolute parental entitlements even on matters such as children's health and education. We ought to concurrently acknowledge children's abilities to make decisions, as well as recognize the pitfall that comes with absolute liberty. I think that parents or guardians ought to exercise these discretions with limits or reservations, both morally and legally. My reservation is shaped by the question of whether discretion or discretional powers morally or legally translates into absolute rights. If we want to justify that parents and guardians have absolute discretional entitlements to children's health and education for example, then we should be able to prove that discretion or discretional powers morally or legally translates in absolute rights.

³¹ Connected with idea of absolutism, proprietaryism hold that given that children are produced by their parents, they are the property of their parents. This condition, according to proprietary theorists' grounds parental rights. How parents treat their offspring is only limited by how such treatments bother on others. That is, insofar as how parents treat their does not undermine the right of others, they are justified (See. e.g. Naverson 1988).

reject the proprietary theory, I do not see how parents' interests in the parent-child relationship are sufficient enough to grant them moral right to corporally punish their children.

Let's begin by examining whether the interest in becoming parent grants parents absolute control over their children, which include a right to corporal punishment. I think that it is problematic to argue that X is justified to have control over Y, based on X's interest in having that power. Granting this unjustifiable phenomenon as suggested by Hannan and Vernon (2008) is tantamount to instituting a society where one adult X is accorded power over another, Y, just by the sheer fact of X's interest in having that power. As Hannan and Vernon rightly argues, it is only when we take the interest in becoming a parent vis-à-vis an interest in becoming a lawyer that we shall appreciate how an interest in becoming parent does not generate absolute parental rights over children. In this analogy Hannan and Vernon explore whether the fact that one wants to become a lawyer for reasons such as salary and prestige of the profession, give them right over their clients? Like Hannan and Vernon, I think that the above-mentioned motivations are only privileges, which do not generate rights over clients. This is scenario is only one of a fiduciary relationship, where the lawyer in spite the motivations of becoming a lawyer, is required to act in the best interest of their clients which is the overriding principle in legal ethics. If we interpret the above condition in other words, clients would have right against their lawyers to represent their interest.

Taking seriously, the parent-child relationship is no different from that of a lawyer and their client. If that is true, then we may assert that the parent-child relationship is a fiduciary relationship. An important implication of the parent-child relationship as a fiduciary relationship is that, parents morally speaking ought to represent children's interests both in positive and negative sense. In the parent-as-fiduciary model, parenting does not grant a sense of proprietary rights over children, but instead a duty to balance the rights and interests of children (Brennan and Noggle 1997). In

the next part of this chapter, I shall lay out the fundamental interests of children which parents are obliged to represent and how they relate to corporal punishment. Moving on, the established point is that, adult's interest of becoming parents does not grant them right to corporal punishment. In what is the case, a position I do not reject, parents should be allowed to raise your children, at least in so far as it is in children's interest as suggested by the parent-as-fiduciary model.

Children interest and corporal punishment

As acting in *best-interest-of-client* is the guiding principle in the lawyer-client relationship, acting in the *best-interest-of-children* is the overriding principle that ought to guide the parent-child relationship. There are quite as many fundamental interests of children that parents ought to protect. Some of such fundamental interests include a duty against their parents to be fed, clothed, sheltered etc. These fundamental interests I perceive, generate rights to children. An important implication of these right-generating-interests significantly impact which parental actions towards children are normatively justified. On the subject of children interests and corporal punishment, if there is one significant children's interest that parents ought to secure then it is the interest children have in personal security. Children's interest in personal security significantly affects how parents ought to permissibly punish them.

It is my object in the rest of this chapter to explore whether or not corporal punishment protects this important interest of children. I do so by first engaging the question of whether children have this interest at all. To be sure, some right theorists dispute that children do not have right to security of the person. I shall on the contrary persuasively argue that children in fact have interest in personal security. Thereafter, I tend to demonstrate how corporal punishment undermines children's interest to personal security, which generate right for children against coercive and physical interferences. Of whatever nature, corporal punishment constitutes physical interference,

hence, undermines children's right to personal security. In consonant to the interest theory of rights, according to which rights are moral demands on society to secure the indispensable interests of people, I conclude that corporal punishment of children is immoral.

Right to personal security, which is sometimes called the right to security of the person, is one of the prototype universal human rights (Lenta 2017). Although, considered as legal right, right to personal security is a pre-legal and independent moral right- in that, they exist whether or not recognised by legal systems (Nickel 1987, 2007). Personal security is multifaceted human rights which makes it seemingly difficult to define. Any attempt to define or describe it would be difficult, but may come in the form as- the unfettered enjoyment by individuals of their life, body, health, and reputation (see e.g. Scanlon 2003, Rowan, Liao, and Renzo 2015, Lenta 2017). How is it thought that people have this right? The claim that personal security is a universal human right is grounded on a host of beliefs or justifications. For purposes of this thesis and what is being discussed in this chapter in particular, text focuses on only two of those justifications- the instrumental and intrinsic or non-instrumental moral justifications.

To begin with, as the name implies, instrumental justification of personal security holds that rights have instrumental benefits to individuals. The argument flows from this view: as humans, we have essential features which differentiate us from non-humans. The proposition is that, it is only through the appropriation of rights (human) that these valued features of human life could be realized (Scanlon 2003). What are these distinctive features thought to be? Speaking to the truth, what actually separates humans from non-humans is normative agency, which is defined as the capacity to independently conceive and pursue a life plan. In a manner of speaking, given that it is only humans that have the capacity to form a conception of a good life, there must be some guarantees attributed to them, in order that they may be able to pursue the conception of the good

life they choose for themselves. What this implies by way of interpretation is that personal security rights secure and further this end state of human, which is agency, herein also called human dignity (Griffin 2010). The take home point is that humans have this right for reason that they are autonomous beings. There are concerns about how this account exclusively limits human dignity to the possession and perpetuation of normative agency.³² There other accounts which mention other significant end states of humans. This leads us to two other types of instrumental justification, ones which argues for other significant features or ends of human life.

The first of these two is the appeal to the notion of rights as furthering good life. Though accepting that agency is a significant factor of a good life, there is a cluster of contending views that a good life consists of a multiplicity of fundamental goods. Inspired by a somewhat Aristletolean teleology, there is a contention that things such as intimacy, the acquisition of knowledge, as well as freedom from pain fundamental elements or goods of a good life (Liao 2015).³³ Other important things include life, religion, play, practical reasonableness, aesthetic experience, religion, and friendship. Finnis (2011) calls the above as *objective goods* of well-being.³⁴ They are objective in that, whether people desire for them or not, they form a core of human well-being. In the absence of these fundamental goods, human life would be somewhat thriftless (Scanlon 2003, Rowan, Liao, and Renzo 2015). The justification of rights according to these views is that rights are significantly contribute to the human well-being. The conclusion is that, personal security right secures and

³² Human dignity, we defined in the chapter denotes the moral value or status of humans from non-humans, say animals. Indeed, human capacity for agency set them apart of other non-human creatures. Is the capacity of agency the sole distinctive feature or end state of humans?

³³ Advocated by Aristotle, Aristletolean teleology is idea that *eudaimonia* which is translated as happiness or human flourishing has connection with ‘the good of man’. The argument is that, it is only through virtuous activities that humans can flourish. However, the lack of some basic goods adversely impact living the virtuous life.

³⁴ In this book, Finnis defends what he calls objective list account of well-being. He provides a list of things which he believes are central to human flourishing.

further the fundamental conditions for living a good life. This kind of justification is apparently connected to the interest theory of rights.

Similar to the good life account, there is a third type of instrumental justification which is even more connected to the interest theory of rights. This account shifts the focus from the good of life to human needs. On this account, there is a set of human needs which justifies the appropriation of rights. In fact, given variations in individuals' goals, our needs would differ across space and time. However, given that humans are of the same value in terms of what makes them humans, there are some basic, indispensable things we all need *qua* humans. That is, independent of individual and socio-culturally defined and adopted goals, for sustenance of our life, certain needs are universal of humans.³⁵ Some of these needs include physical and material things such as food, water, and air. Others include healthy psychological life; so things that inure to our psychological health benefits are things every human need. The significance of these universal human needs is the sustenance of minimal decent human life. It is the principal object of human rights which is the creation and sustenance of the conditions which allow for all humans to lead a minimally good life that makes securing of personal security necessary (Miller 2007).

The non-instrumental justification completely shifts the argument from realization of some valuable ends to a more philosophical direction. The focus here is on the moral status of humans.³⁶

³⁵ Humans as we observed in chapter believed to be of the same body system. They for example have the same brain functioning, heart functioning, blood system, same body metabolism, and so forth.

³⁶ In addition to normative agency, features such as human capacity for experiences such as pain and pleasure set them apart from non-human agents. The objection may be that, human's capacity to experience pleasure and pain could be applied to animals as well, and that animals too have this right. Admissibly, kicking a rock or teddy bear would be different from kicking a dog or cat. However, the stress is on humans. The contention is not whether and how animals have personal security rights.

On the this account, as a fundamental human right, personal security a right humans hold not because they promote and secure human ends such as agency, needs, or interests. Rather, we just owe them because we are humans; this right expresses our worth as humans (Kamm 2007). Every human, on this account is 'sacred', which significantly impact how others could treat them, which include for example, physical force, degrading transactions, torture and so forth. So whether an individual has or lack normative agency does not impede their possession of the right to security of the person.

So far, we have discussed that on the instrumental justifications, valuable human ends such as normative agency, leading a good life, and meeting some basic human needs justifies personal security. On the non-instrumental justifications however, personal security is justified on grounds of humans' moral status. In fact, the non-instrumental justification would be more convincing when referenced with the instrumental justifications. Whichever way one sees it, either from instrumental or non-instrumental grounds, personal security is a conditioned, indispensable and inviolable human right. Securing this significant good or right involves a combination of liberty and claims (Nickel 1987, 2007). For example, given the unobjectionable fact every human has interest in their own life requires maximum protection of life through a combination of liberty and claims. Speaking of liberty, right to life limits others from trespassing against one's person. Such acts may include but not limited to harmful transactions, unconsented transactions etc. In other words, right to life, which is a component of personal security is infringed when others inflict harmful or offensive contact on one's body without their consent (Feinberg 1980). Moreover, people have claim rights to have access to fundamental things that inure to sustaining their life.

Indeed, there are reasons for us to argue that if right to life generate both positive and duties, then society ought to protect bearers of this important life. If that is right, then it is morally required of

states to secure people's right to personal security through proper legislation. Although personal security exists as an independent moral right, as Nickel (1987, 2007) rightly argues, so whether legal systems recognise and implement them or not do not undermine the moral significance. The moral requirement of state to recognise them is partly or perhaps mainly because compliance with it is obligatory, more than it being a matter of choice, or discretion. To be sure, the right to personal security is recognised in many legal systems and has been adopted by the United Nations as a universal human right. The contention however is whether children are possessed of this right that makes them worthy of protection.

Having established denotations, the important question is whether children have the right to security of the person. The answer to this question would mainly depend on which analysis of rights one accepts. This involves a combination of the choice and interest theories with the instrumental and non-instrumental justifications. Referring to the first instrumental account, which is identical with the choice theory, it would be difficult to ascribe to children personal security at least for ideological reasons. On this account, because human's dignity which is the capacity to conceive and pursue a good life that generate right to security of the person, given that children lack this capacity, it would be wrong to attribute this right to them. Seemingly, this justification is a corollary of the choice theory of rights. However, if one were favorably disposed to the interest theory of rights according to which rights promote individual welfare, then it is obvious that the second and third instrumental justifications make children bearers of right to personal security. The argumentative power of children as bearers of personal security rights becomes weightier when the second and third instrumental justifications are combined with the non-instrumental justification. And this is the position I seek to defend.

To begin with, as my position has been thus far, I reject the choice theory of right on the basis of it as not being exhaustive- it is inhospitable to persons who not by their own fault fall short of this feature, so is the first instrumental justification of personal security rights. I find it worrying for us to defend that the sheer fact that children lack normative agency makes them unfit to enjoy right to security of the person. It is simplistic, if not worrying, to exclusively limit human dignity to agency. Children, as agreed, lack the ability to determine life on their own. This however does not erode their dignity or status as humans. Children are humans too, amidst their inability to conceive and pursue life on their own, they have the capacity to experience pleasure and pain (Newell 1989). In other words, children's dignity as human are not reduced *qua* children, they possess the same moral status as adults. This constitutes sufficient ground for bringing children under the ambit of the second and third instrumental justifications.

As noted, the second instrumental justification justifies personal security as a moral and empirical good for human life. On the third justification, the justification of personal security is grounded in the belief that it helps us lead minimally decent life as humans. These two justifications, if condensed into a single justification would put personal security as a fundamental interest of humans. If that is true, then invoking the interest theory, we can argue that personal security is an interest right of human, which in turn generate positive and negative duties. In fact, if children as established are persons too, then they would also require things that makes human life go well or lead minimally decent life, which in our case is personal security.

As Lenta (2017, 66) rightly argues, "if children are humans too, and personal security is universal interest of human beings, then there is no conceptual difficulty in attributing this right to children as well as adults, for children no less than adults have the interest this right safeguard." In fact, given the fragility of children's physical and psychological make-up, they would require more of

this interest right than adults. The opposite is however the case, adults are generally protected more than children are. In the parent-child where there is the existence of unequal power relations, the unfettered enjoyment by children of their life, body, health, and reputation are often at risk. It is morally fair and right that society and state intensify moral and legal protection of vulnerable who for certain reasons are powerless to ask and defend what is due them. Personal security rights are indeed important for persons under the whim and caprice of others, particularly children. If we grant, as have been established, that children have interest right in personal security, then this would significantly impact how they should be permissibly punished. In what follows, I shall demonstrate whether and how corporal punishment undermine personal security of children.

The exploration of whether and how corporal punishment undermines children's personal security could be difficult, yet easy if started from remembering the definition of personal security right. Right to security of the person as recalled and discussed, is as an inviolate moral right, which allows people the unfettered enjoyment of their lives, body, health, and reputation. This inures to their bodily security, which we discovered in a fundamental interest of humans. How is personal security right thought to be infringed? The answer is simple- given that personal security is an inviolate right, a breach of it involves the least deliberate and non-consensual transaction on others body (Lenta 2017, 74). This could come in the form as harmful or offensive transactions such as hitting, punch and even unwanted caress. Joel Feinberg (1980) puts this in an illustration as, as Y's inviolable right, if X inflicts harmful or offensive contact on Y's body without Y's consent, then X has breached Y's personal security right. Is corporal punishment a representation of the above? My contention is that all forms and types of corporal punishment are indictment on children's bodily security, which undermine their personal security rights.

It is uncontested that corporal punishment by definition, scope, and practice is a transgressional act. To be sure, conflict surrounds what counts as corporal punishment. As we observed in chapter two, philosophers, child ethicists and legal systems diverge on what accounts as corporal punishment (see e.g. Straus 1994, Gershoff 200, and Hyman 1997). In defining and justifying what counts as corporal punishment, the argument is that a line should be drawn between physical punishments that cause injuries and those which do not. However, as I argued in chapter two of this thesis, given that intention of an act is important as its consequence in moral ethics, the (definition and) justification of corporal punishment should not be capped at its consequence- that is either it causes injuries or not. In whatever form it takes, whatever consequence it brings, corporal punishment generally and practically speaking is deliberate and non-consensual administration of physical force to achieve any of the following aims; cause pain and discomfort to children or even injure them. Indeed, activities such as making children squat or stay in same position, for example kneeling would not involve the application of physical force in activities such as hitting, spanking or punching. Albeit, the act involves deliberate infliction of pain or discomfort to the children. Put differently, we can cause pain, either physical or psychologically on others without necessarily using physical force. Once parental admonishment is deliberately targeted at children's body with includes their psychological faculty to achieve any of the above aims, it counts as corporal punishment.³⁷

³⁷ To remedy the conflict on the definition and scope of corporal punishment, this thesis provided an all-encompassing definition- one which captures all that has been discussed above. Corporal punishment as suggested in this thesis includes *any physical punishment, regardless of the consequences, inflicted to cause physical pain, emotional or psychological discomfort to children, so as to correct and/or deter their misbehavior. Regardless of the consequences, I mean whether it causes injury or not.* See chapter two of this thesis for discussion on the definition and scope of corporal punishment.

If I am right that corporal punishment of children is always deliberate, non-consensual, causes pain, and most times involves the application of physical force, then an argument that corporal punishment violates children bodily security rights is in order. In other, words children's body are constantly trespassed through corporal punishment. Given that the good life of man entails freedom from pain, and corporal punishment induce physical and psychological pain as suggested by the empirical evidence, it is right to defend a position that corporal punishment of children is not morally good nor right. Corporal punishment involves a clear breach of children's moral right to enjoyment of their bodies from encroachment.

Following the above argument, one may object that children lack normative agency to consent which renders my argument fallible. Fairly, children lack the normative agency to consent, I do not see how this condition excludes them from freely enjoying their bodies without interference. It is only if one were sympathetic to the choice theory of rights that such objection would arise, or it is only when we grant the first instrumental justification of personal security rights without reservation that such objection would gain prominence. The problem with granting these propositions without reservation is nothing more than instating a moral community where thoughts about moral beings who cannot consent is that superior autonomous beings can treat them as means to some ends. In such a moral community, children and adults who are mentally incapacitated would be at the mercy of the whim and caprice of others who are believed to be capable of leading lives on their own.

My response is simple. Validly, children, particularly younger ones lack normative agency to perceive and pursue a good life. However, as my position has been, the choice theory is non-exhaustive, so is the first instrumental justification. It is too narrow to exclusively limit human dignity to possession of normative agency. Children, although lack normative, they are no less

different or worthy than adults. They are humans too, and sacred, where interaction with them demands maximum recognition like any other human being. Although they lack agency, their moral status as humans makes them bearers of this right. As Kamm (2007) and Nagel (2002) rightly argue, on the one side, the attribution and justification of personal security right is matter of our basic moral status, and not a question of normative agency. Whether or not people possess normative agency is inconsequential to their claim to personal security rights. If the argument is that bodily security ought to be exclusively granted to persons capable of exercising choice or autonomy, then I am morally justified to treat my psychologically impaired relative any how I deem fit. This is the kind of position anti-children's right scholars like Jan Narveson (1988) defends.

Furthermore, if we grant the thesis of the choice theory and first instrumental justification of rights as the protection and perpetuation of choice as correct, then children's lack of normative shields them from this right violating act. If humans presumably hold proprietary rights over ourselves and our bodies, then this generates negative duty on others with regards to access and direct impinge on our bodies, at least according to the choice theory. The proprietary prohibition on access and direct interference is removed, when individuals gives their consent. If children lack normative agency, and thus cannot consent, then they in no way consent to this bodily security interfering act, which should only be carried out mainly on consensual grounds, at least on the choice theory perspective. To counter my position, one must prove how children consent to this bodily interfering act. Two ways come to mind; that through birth and activities of parenting, children consent to corporal punishment. To begin with, one may argue that children through birth consent to being in the parent-child relationship, which in turn give parents rights over their life. Differently, one may argue that, because children are powerless to provide for their own need and

depend on their parents for survival, they tacitly express consent to how their parents provide for their needs. It is unclear how both denote as expressed or implied consent, particularly birth. Children do not decide which parents they are born to, neither do parents decide which children they give birth to. Moreover, as I argued in the early part of this chapter, providing for children's needs is nothing more than a de-facto responsibility of parents.

Granting without admitting that both constitute forms of consent, two things limit how parents could treat children, which includes how children could permissibly be punished. First, that children are humans too. The sheer fact that children through the propagated means consent to the parent-child relationship does not trump their right to life or enjoyment of their bodies. Moreover, even if children consent to be in the parent-child relationship, the parent-child relationship as we discovered is nothing more than a fiduciary relationship, like that of a lawyer and their clients. And in the parent-as -fiduciary model, parents moarly speaking are obliged to represent and respect fundamental interests of children. If we are right that personal security is a fundamental universal human interest, and children as humans too, then it is morllay required of parents to respect and secure, but not voilate this important rintest of children. In other words, children's right to privacy over their bodies, requires that any time parents act, their ought to desist from activities that undermine children's security of the person. To be sure, children cannot enjoy complete privacy, personal control over their bodies, else they will harm themselves. Eventually, sometimes we can corce, for example coercing them to have vaccination. The allowed sitautions of child coercion, I have sought to argue does not include corporal punishment.

Although I have persuasively outlined how corporal punishment morally undermines children's right to privacy over their bodies, other set of issues arise with respect to recognisong peoples right to personal security. Many are concerned about how right to security of the person seem to appear

as absolute rights. The argument is that under some instances we may be morally justified to nonconsensually breach person's right to security of the person. Two of such moral grounds are the utilitarian and best interest justifications. With respect to the former it is possible to violate an individual's personal security if that brings maximum benefit to society we should allow it. The thought is that we can sacrifice the personal security of few or one to save many. Similarly, it is argued that we can apply excessive physical pain and force to resurrect a coma patient, if that is the only effective option (Kramer 2014,102). Although the coma patient may not be able to consent, however given that their subjection to the excessive physical force and pain would improve their situation, interfering with their right to privacy over their body is in their own interest. We are thus morally justified for the interference. If the above scenario justifies violating the patient's personal security, then one may argue that, in a similar manner we could violate children's right to security of the person without their consent. Think of the child vaccination I previously mentioned. Although vaccination involves inflicting of pain and tampering with the human body, if a child's life is at stake and if vaccinating the child is the surest way to protect or save a child's life the idea is we should allow it. It is in the child's own interest, contrastingly, if the vaccination brings no benefit, it is needless, and unjust (Lenta 2017).

In fact, the above situations are plausible justifications for interfering or violating of persons' right to security of the person. I share the same view that if we have strong moral reasons like in the scenarios above, we may interfere an individual's right to security of the person. It is only when we project personal security rights as absolute as suggested by Kamm (2007) that we may have wronged the persons in question. Projecting right to life as important and absolute invariable component of personal security on Kamm's understanding means under no utilitarian or in-the-best-interest grounds should person's bodily security be tempered with. However, think of aborting

a foetus for the live of her mother. If aborting the foetus is the only surest way to save a dying pregnant parent, I think we should allow it. Although bodily security right is invariable fundamental right, I however think it will be morally wrong for us to allow a child to die if vaccinating them could have saved them, or allow a pregnant mother to die, if we could have saved her life by way of abortion. Indeed some emergency situations or life-threatening situations may allow for boldily interference. How does the above connect to corporal punishment?

By way of analogy, one might argue that for the betterment of society, that is producing better and well-behaved citizens, we have a moral duty to discipline children. One of such argued ways is through corporal punishment (Benatar 1998). Having good and disciplined moral community is indeed desirable. Yet, I do not see this is strictly analogous to any of the instances where right to life trump right to privacy. Unless we have strong moral or empirical justifications, I do not think corporal punishment is a life-saving phenomenon. Corporal punishment in fact does the opposite. To make my argument even more compelling, in the all above scenarios where the subjects' personal security rights or bodily integrity were justly interfered, the compromise was that the violation brings more benefits than costs and or was deemed the only viable option to achieving those benefits. Connecting this to the proposition that corporal punishment has societal goods, a worth asking is whether corporal is the best and or only method to achieving the sought after societal good?

The above question could be put in other words as, is corporal punishment effective vis-à-vis other alternatives if available? Although my interest is not prescribing particular alternatives to corporal punishment. As we observed in chapter two corporal punishment is just one type of child discipline technique. Other forms of child discipline include response cost techniques, or timeout reinforcement, fines, as well as casual verbal corrections (Macmillan, Forness and Trumbull 1973,

Carey 1994). However, in spite of the availability of alternatives, vis-à-vis some of these alternatives, corporal punishment is alleged as being more effective. Comparing corporal punishment with detention or committing offenders to communal work for example, David Benatar (1998) and Scarre (2003) argue that the former is effective. The empirical evidence as observed in chapter three proves otherwise. Indeed, the empirical evidence suggests that corporal punishment sometimes have short term efficacy. However, failure by its proponents to convincingly demonstrate that corporal punishment is the only and viable means to produce this communal good cast shadow of the short term efficiency of corporal punishment.

Granting without admitting that the argued utilitarian benefit of physical punishment is empirically valid, there is an important philosophical question worthy of exploring; that is, whether the fact that an effective way of doing something justifies our resort to it anyhow and when. If amputating the wrists of robbers for example improved citizens morals, should just allow it because it does? This is a significant question Benatar (1998) like Scarre (2003), and the likes of Wilson (2004) and Clark (2004) fail to address. Tenably, on what is being discussed, if amputating is the only way, then we should allow it, at least on grounds that it is effective. However, given that defenders of corporal punishment of children have failed to persuasively show that there are no options to corporal punishment that could achieve this utilitarian good, our resort to it unjustified.³⁸

If we allowed for the sake of argument that corporal punishment satisfies as the best way to achieve this communal good, for it to gain more credence as a justifiable moral act for interfering with

³⁸ In fact, there are empirical studies which shows that non-aggressive disciplinary techniques achieve equal results as physical punishment. See example Roberts and Powers (1990) and Straus (2001, 150-151). See chapter three of this thesis. If there other efficacious techniques why corporal forms of discipline?

children's personal security rights, it must satisfy another condition; which is, whether interfering with children's bodily integrity through corporal punishment is in children's own interest. Reviewing the literature, a semblance of arguments hypothesize that corporal punishment has instrumental benefits to children, as projected by the consequentialist justifications.³⁹ Premised on this allusion, one may argue that, although physical punishment is painful and seemingly interferes with children's personal security, we should allow it because it is in their own interest (Benatar 1998). Scholars who justify corporal punishment from consequentialist background adorns corporal punishment as having deterrence and compliance value. Additionally, it is believed that because punishment as an institution serve as a form of rehabilitation process, not only does corporal punishment reform children, it has lasting positive effects on children's psychological development (see e.g. in Straus 1994, 9). The idea is that because the deepest layers of children's personality are formed during infancy, they must be groomed in such a way they are able to internalise good morals right from tender age. The absence of corporal punishment in children's life by exposition negatively affects children's flourishing as children, and the kind of adults it is good for them to become (Benatar 1998). The veracity of these claims requires empirical scrutiny. If corporal punishment indeed brings maximum benefit than cost to children, then from the above proviso, we should allow it. Contrastingly, if it turns out the other way, then it is as needless as a vaccination that brings no benefit to the child.

Here again, the empirical evidence fails. No empirical study has identified long term positive effects of physical punishment on children. Durrant and Ensom (2012) work is a testament to this

³⁹ As noted in the chapters 2 and 3, consequentialists justify corporal punishment on the assumption that punishment generally brings about good or instrumental benefits. Some of the identified goods include deterrence, rehabilitation and reformation of morals.

fact. Reviewing the literature from the two decades before their work in 2012, Durrant and Ensom affirms no such benefits. Lenta (2017) finds no such works after 2012. All there is are negative effects. At this point, it would be very useful to invoke the *harm view* argument.⁴⁰ On the harm view argument corporal punishment is risky to humans in general, and children in particular. Human body is fraigle and subtle to harms that comes with physical interference (Lenta 2017). Beyond physical pain, physical force or punishment directed on human body produce wounds and scars. In fact, given the delicate nature of children's body, they sustain more wounds than adults. Beyond physical wounds, empirical studies on physical punishment of children has produced consistent findings that corporal punishment has adverse effetcs on the psychological well-being of children.⁴¹ The empirical evidence suggests that corporal punsihment leads to negative self-esteem (Hyman 1995), which has bearing on depression and suicide rate in children; the more children are phycally chastised, the higher their chance of committing suicide (Straus 2001). Gershoff (2002), finds increased aggression and anti-social behaviours in children physically punished. Last but not least, physical punishment of children make children cultivate hatred towards others, and their parents in particular. Not only do children subjected to physical punishment fear and lose trust in their parents, they tend to assault other children, because they see violence is justified option to settling interpersonal disputes (Hyman 1997, Durrant and Ensom 2012). In the absence of contending empirical studies, the above empirical evidence points to the conclusion that.

⁴⁰ The harm view argument is cluster of empirical studies which finds corporal forms of punishment as having physical and psychological effects on children.

⁴¹ See e.g. Turner and Finkelhor (1996), Hyman (1997), McCabe and Clark (1999), Gershoff (2002), Durrant (2006), Durrant and Ensom (2012), Saunders and Goddard (2010), David (2011), Taylor (2011), Gershoff (2002), Holden (2014), and Zolotor (2014).

In other words if corporal punishment does not do anything more than producing adverse effects on children's physical and mental health, then why interfere with children's bodily. What makes the effects of corporal punishment so critical is that, the human body is irreplaceable and inescapable (Dworkin 1988). As Dworkin (1988, 113) further explains, unlike the human body, we can always move out of our houses, if our architects do not respect our orders and build houses we do not like. If Dworkin's expository of the human body is right, then it is ideal that children be protected from the long term physical and psychological effects that comes with physical punishment.

Conclusion

This chapter has examined whether people have a moral right to corporal punishment; could corporal punishment be a right of parents/guardians or children? It has shown that the answer to this question largely depends on which of the two traditional theories of right one accepts- the will or interest theory. According to the will or choice theory where the attribution of moral rights is the possession of normative agency, that is, the ability to exercise choice, or determine and pursue a life plan, children would not have rights. The reason being that, they lack normative agency to exercise choice, as well as waiving the correlative duties. Essentially, any argument that children have claim and immunity rights against others which includes corporal punishment would not work. However, we observed that what rights do on the interest theory is the protection of fundamental interests which makes human's life go well. Unlike the choice theory where the possession of choice put others under obligation, it is the possession of interest that promotes individual welfare that puts others under duty. On the interest theory, it does not really matter whether people are capable to choose or waive the correlative duties. So although children lack normative agency, it is however not implausible to accord them welfare rights because they are possessive of some fundamental interests worthy of protection. Children for example have interest

such as being fed, cared for, loved and so forth. Given the exhaustiveness of the interest theory, text rejected the choice theory, and proceeded with an analysis of corporal punishment from the interest theory perspective.

For people to have a right to corporal punishment they must have fundamental interest in the act. In order for people to have claim and immunity rights to corporal punishment, they must have sufficient moral grounds to show how the act makes their live go well, which eventually others under positive and negative duies. Overall, therefore, this chapter inquired whether parents or children or both have interest in the corporal punishment. According to one view, the parental entitlement argument, parents have recognizable interests in the parent-child relationship which generate rights over their children, which includes right to raise and discipline their children in ways they deem fit. The most recognizable interests are psychological well-being, as well as forging and maintenance of intimate relationship. Given that parental interests in the parent-child relationship generate rights and correlative duties, it is required of society to promote the parent-child relationship by way of non-interference. In-depth interrogation of these interests showed that, although parents are possessive of these interests, they are short of worthiness to grant them corporal punishment rights. Using the lawyer-client relationship as analogy, the chapter critiqued how parents interest in the parent-child relationship generate rights over their children. The analogy showed that having an interest in something does not automatically generate rights. This a setback proponents of parental entitlement view fail to address. The parent-child relaionship we discovered is no more than a fudiciary relationship like the lawyer-client relationship, where the lawyer is morally and principally required to represent the interest of their client. Rather than voilating, the parent-as-fudiciary model requires that parents represent and make others respect children's interest.

Children possess many fundamental interests. Things such as adequate nutrition, clothing, safe environment for development and so forth, make children's life go well. An implication of these right-generating-interests significantly impact parental actions towards children. On the subject of children interests and corporal punishment however, it is children's interest in security of the person which is defined as the unfettered enjoyment by individuals of their life, body, health, and reputation that impact how parents and guardians could permissibly punish them. Children are bearers of this right because like any other human being, things such as freedom from pain, degrading punishment makes human life go well. And given that children are persons too, although they lack normative agency, for their life to go well, they need to meet the conditions all humans need for life sustenance and flourishing.

Right to security is a paradigmatic inviolable right; it denotes proprietary rights over ourselves and our bodies, whence its violation requires strong moral justifications. Deliberate and unconsensual infliction of physical force and pain on others is a breach of people's personal security. This chapter established that corporal punishment it is deliberate, non-consensual physical act targeted at the human body to induce pain and discomfort. If that is valid, as proponents of corporal punishment admit, then morally speaking, corporally punishment violates children's right to security of the person. Proponents of corporal punishment propose that on utilitarian grounds and in best interest of right-holder, they right to personal security could be interfered. For example on the utilitarian justification, the notion is that if we apply physical force and pain to resurrect a dying coma patient, we have not wronged them. At least, the interference brings more benefit than cost to the patient, it is in their own interest. The condition of the interference was that it is was the only and viable means to bring about the life-saving good. On the subject of corporal punishment, defenders of the act has instrumental benefits. The belief is that corporal punishment has deterrence

and compliance value, mold children into the kind of adults they become; it enables children to internalise morals etc. In view of these instrumental benefits, and given that parents on the fiduciary model are required to act in the best interest of children, it is children's fiduciary interest to be corporally punished.

Indeed, if corporal punishment had these instrumental benefits to society and children themselves, and is the only and viable way to achieve these goods, then parents may be morally justified to corporally punish their children. Analysis of this assertion showed that the empirical evidence fails. First, that corporal punishment is not effective. In fact there are other alternatives to achieve the same outcome. Most significantly, corporal punishment per the empirical evidence undermines children's physical and psychological development. If the empirical evidence suggests corporal punishment is ineffective, as well as being risky to children's physical and psychological well-being then the act is needless. In other words, if interfering with children's personal security rights brings nothing good, then parents are morally required to abstain from such interference. In fine, this chapter concludes that corporal punishment is not normatively justified, in that, parents have no right to it because children have a right not to be corporally punished.

CHAPTER 6

Corporal Punishment in Ghana

Key Words: Universal Declaration of Human Rights (UDHR), United Nations Convention on the Rights of the Child (UNCRC), African Charter on the Rights and Welfare of the Child (ACRWC), Children's Act of Ghana 1998

Introduction

Children, we have thus far observed are treated traditionally as insignificant members of society by adults. They are accorded little, or entirely denied hearing. The use of force against them is thus persistent across geographic borders. The degree and nature of the force applied on children, and consequently its justification, however, are determined in part or wholly by the prevailing cultural standards of societies. Conceivably, the socio-cultural ramifications of juvenile ethics are important, but establishing renewed conceptions of corporal punishment demonstrates how socio-cultural capital variations may not justify the use of physical force on children under any such contexts. Some of such renewed ways of thinking about physical punishment is adhering to some minimum universal standards and fundamental moral rights I argued for in the previous chapters. These renewed conceptualizations of corporal punishment are reinforced by the adoption of two important international conventions; the 1948 United Nations' Universal Declaration of Human Rights (UDHR) and, the United Nations Convention on the Rights of the Child (UNCRC) of 1989. It is however noteworthy that while these are the influential universal human rights framework; the former is seemingly gaining adequate currency than the latter. In as much as some regional organisations and states adopt the UNCRC in good faith, others have different orientations towards it (Twum-Danso 2012). The 1990 African Charter on the Rights and Welfare of the Child (ACRWC) for example is one vivid regional charter in that regard. Although the ACRWC affirms

the intrinsic dignity of the child, however, committed to reserving the virtues of African cultural heritage, historical background and the values of African civilization, Article 20 (1) (c) of the charter provides for the use of domestic discipline important for a particular culture. In terms of states that have yet to fully implement the UNCRC ideals is Ghana. The government of the Republic of Ghana is a state party to the UHDR and has made seemingly profound efforts to protect the dignity of all persons in Ghana. In view of Ghana's commitment and affirmative clench to 'liberal' democratic values (where the motto for its coat of arms is 'freedom and justice'), it is mostly called the 'the beacon of Africa's democracy' or 'the shining star of Africa'. In accordance with what is likely, the different orientations towards the UNCRC, Ghana one of the 193 ratifying countries of the UNCRC, in spite of the above attributes, is yet to fully live to ideals of the CRC (i.e. mandatory protection of children from all forms of physical force).

While some controversial religious and cultural child practices (such as the female genital mutilation (FGM), child ritual sacrifice, the Trokosi system, and child labour) have constitutionally (Children's Act 1998, Article 13 (1)) and policy-wise been banned on some universal moral grounds such as human dignity, pain, and associated health risks reasons, others have received little attention. One of such important discourses receiving minimal attention is the physical punishment of children, a widely accepted way of child correction in Ghana (Agbenyega 2006, Twum-Danso 2012). Corporal punishment has been treated as dissimilar to the other forms of physical force used on children. Although Article 13 (1) of the Children's Act 1998 prohibits cultural practice which dehumanises or injures the physical and psychological wellbeing of children, Article 13 (2) of the same Act provides for 'reasonable' and 'justifiable' correction. In view of this provision, frequently, children are intentionally flogged, slapped, hit, caned or meted with other kinds of physical punishment by parents, educators, and other adults such as caretakers

for corrective purposes (Kyei-Gymafi 2011). Seemingly a paradox and an inconsistency, the aforementioned Acts undermine universal human principles, yet the social and legal institutions in Ghana approve of them.

In fact, if there are any universal moral grounds to question some of the aforementioned controversial cultural and religious child practices such as the FGM and Trokosi system, then they support my position that corporal punishment could also be universally abolished from the same universal considerations. Of course, my central position in this chapter proposes that if a state like Ghana has legally banned for example FGM for reasons of human dignity, pain, and adverse risks, then it is required of that same state to protect every child from all undesirable coercive practices that are symmetrically uncomfortable, derogatory, and risky. Seeking to change the global status-quo of corporal punishment of children, particularly in countries that have yet to abolish all forms of physical punishment⁴², I bring into focus in this chapter, the state of corporal punishment in Ghana⁴³ amidst the growing universal call for recognition of the UNCRC ideals⁴⁴. In this chapter I particularly looks at:

1. the traditional Ghanaian juvenile ethics and the use of force,
2. the prevalence, and

⁴² South Sudan (2011); Republic of Congo (2010); Kenya (2010); Tunisia (2010); Poland (2010); Liechtenstein (2008); Luxembourg (2008); Republic of Moldova (2008); Costa Rica (2008); Togo (2007); Spain (2007); Venezuela (2007); Uruguay (2007); Portugal (2007); New Zealand (2007); Netherlands (2007); Greece (2006); Hungary (2005); Romania (2004); Ukraine (2004); Iceland (2003); Germany (2000); Israel (2000); Bulgaria (2000); Croatia (1999); Latvia (1998); Denmark (1997); Cyprus (1994); Austria (1989); Norway (1987); Finland (1983); Sweden (1979).

⁴³ Indeed there are other countries in the world that have not abolished all forms of corporal punishment. Then why Ghana? I selected Ghana for personal experience reason; I am much familiar with the child rearing practices than any other country.

⁴⁴ At this point it is important to mention that because there is not enough literature on corporal punishment in Ghana, arguments in this chapter combine the few referenced works with media reportages, and personal narratives.

3. the socio-institutional (culture and religious) justifications of corporal punishment, as well as
4. the legality of corporal punishment of children.

In last section, I shall attempt to draw symmetries between corporal punishment and the FGM and the Trokosi System.

1. The traditional Ghanaian juvenile ethics, and the use of force

Over the past twenty-eight years or so, the proposition that children ought to be heard in all issues pertaining to their lives and well-being seem to have had growing impact on the juvenile system of countries. At the international level, states have been admonished to eradicate the use of force in (or violent modes of) child rearing. Globally, children, it has been identified suffer varying kinds of violence or coercive interventions at five principal settings. These include, home and family, care and justice systems, schools and educational system, work settings, and community wise; and the same is true in the case of Ghana (Kyei-Gyamfi 2011, 77). The use of force on children is a contagious child-rearing practice in Ghana, evolving from the pre-colonial times through to the post-colonial military-dictatorship era, and in more recent times the ‘liberal’ democratic era.

Although there is no clear cut data on the exact number, Ghana like most African countries is a multicultural state with over forty-six diverse ethnic groups and three main religious divisions⁴⁵. These differences account for the varying structure of juvenile ethics in Ghana. Despite the differing cultural and religious orientations of the Ghanaian people, albeit, one feature seem to be eminent; the uniform subscription to ‘conservative’ values (strong ethics). Consequentially,

⁴⁵ See <http://ghanaweb.ws/ethnic-groups-of-ghana.html> for ethnic groups and religious demography of Ghana. About 69% of Ghanaians are Christians, while 16% and 15% are Muslims and traditional religious groups respectively.

juvenile ethics in Ghana have been predominantly illiberal, and ‘violent’ (Ame 2011). Some traditional juvenile practices in Ghana includes the male and female circumcision, the infant betrothal marriage, and the stygian trokosi system (a so-called ritual justice practice in which female virgins, as young as three years are presented to the priest of a shrine in atonement for a crime supposed to have been committed by some members of her (i.e. the girl child’s) family).

To tell the truth, the story has however improved in the modern Ghanaian democratic era, as some of these controversial violent juvenile ethics like the trokosi system, and the FGM, are washing off by the admonishment of the UDHR and UNCRC, as well as public awareness (Agbenyega 2006). The reverse is the case with physical use of force in disciplining children. For the past decade and some years, for most child violent cases which involves the use of force, a majority of them do not involve these ‘cruel’ traditional practices, they rather involve the physical discipline of children (Kyei-Gyamfi 2011). Policy makers and scholars are not easily persuaded into discussions questioning corporal punishment. Debates on the use of force either than corporal punishment, for example the aforementioned Trokosi system and the Female Genital Mutilation are echoed with high moral tone. Two things explain why the latter child practices are accorded high moral significance than the former by politicians, opinion leaders, and scholars.

First, that those types of physical use of force are morally wrong, and impermissible for (universal) reasons of respect for human dignity, pain, and associated health risks. Borrowing Article 28 (3) of Ghana’s constitution which stipulates that, a child should not be subjected to torture or other cruel, inhuman or degrading treatment as a premise, the trokosi system and the FGM are considered torturous, cruel, inhuman, and thus abominable. This plausibly explains why discourse on the Trokosi system and Female Genital Mutilation (FGM) have so far produced unilateral answers (See e.g. Ameh 2004, Rwomire 2001, Ame 2011). Secondly, it is difficult for politicians

and opinion leaders who are child bearers or potential child bearers themselves to confiscate what they deem an entitlement to hit their offspring in the name of correction. This appears to be underscored by personal experience. One argument is that, we were all hit by our parents, something normal. Although sometimes harsh, they were good for our being; we did not die (Twum-Danso 2010). After all, without regard for peripheral considerations, children are properties of their parents, hence the right of parents to raise them as how they like⁴⁶. This makes it seemingly difficult for several people in Ghana including policy makers, politicians, as well as scholars working in juvenile ethics to conceptualize corporal punishment as a fundamental human rights and equality issue like the FGM and the trokosi system. It is in the light that corporal punishment has been treated as a disjointed moral issue in Ghana that less has been written by scholars, consequently encouraging its normativeness. With physical use of force in disciplining children making up the numbers in terms of child rearing issues in Ghana, it is important to divert maximum attention to its prevalence.

2. Prevalence of corporal punishment in Ghana

A recent study by Global Initiative to End All Corporal Punishment of Children (2017) observes Ghana a high prevalent physical punishment country. Describing the prevalence and acceptance of physical punishment in Ghana, we may look at a 2006 media reportage by Ghanaweb that occurred in a suburb within the metropolis of the nation's capital. The community watches a mother in her early thirties dragging her 10-year-old son from the public by the ears, while mercilessly beating the small boy at the same time, for allegedly stealing a neighbour's bread worth

⁴⁶ In fact, that parents have discretion in wellbeing of their offspring is conceivably, yet I believe other considerations such as the interests of children limit parental rights in treating children how they like. I shall attend to this phenomenon in the next chapter.

20 pesewas Ghana currency (approximately less than 10 Canadian cents). Obscured from public view, the woman who felt his son had disgraced the family, locked the small boy in the room, where she subjects him to some more canning. Worse to that, to make her son feel how much he had disgraced her, she refused the boy food, and consciously inflicts deep cuts on all of his fingers with razor to serve as a deterrent.

Another recent scene that took place in 2016 on a television channel in the country which is trending on social media⁴⁷ makes the argument that corporal punishment is prevalent in Ghana coherent. In this scene the leader and founder of a church in Ghana, infuriated by an alleged erotic affair between two teenagers (who are believed to be his adopted children) in his church which led to pregnancy, is seen administering physical punishment on the two with belt in front of a full glaring congregation. The pastor lashes the young boy on bare back, while the girl suffers beating on several parts of her body. In this unsavory experience, as the young girl tries to flee the beatings when she could no longer resist, she is captured and brought back to the pastor for more flogging by the pastor's assistant pastors. Having flogged the two to his satisfaction, probably when he was tired, the pastor orders his assistant pastors to also whip the weeping teenagers with their belts. The very regretful aspect of this incidence, something that brings much distress to the heart (especially to individuals who care about juvenile justice) is the congregation clapping and jumping, as they seem to be enjoying the plights of the wailing young pregnant girl. These acts of impunity gained quite an audience in Ghana's human rights fraternity, there is however nothing to write home about.

According to the report by the Global Initiative to End All Corporal Punishment of Children (2017, 6-8);

⁴⁷ See https://www.youtube.com/watch?v=XOGTvhy9l_A for this scene.

- between 2005 and 2006, 90% of Ghanaian children between ages 2 and 14 experience some form of violent discipline (physical punishment and psychological aggression) at home by parents and caregivers. Narrowing down, the average of seven out of every ten children (i.e. 70%) between those ages experience physical punishment, with 10% of them experiencing severe physical punishment. The percentage of children who experience psychological aggression stood at 88%
- in a different study of 4164 children conducted in 2008, while 71% of them experienced some form of corrective force at school, a 81% experienced that at home. A 94% of the sample size have either experienced or witnessed physical punishment in school inflicted on them by teachers.
- between 2010 and 2011, the number of children between ages 2 and 4 who experience some form of violent discipline (physical punishment and psychological aggression) at home had increased by a 4% margin. The number of children who face physical punishment increased to 73%, while the occurrence of severe physical punishment rose to 14%. The percentage of children who experience psychological aggression also increased by a 1% margin.

The above figures suggests that that corporal punishment is prevalent in Ghanaian homes and schools. A combination of the figures, and the two scenarios (particularly in the latter where the congregation watched on with no sense of empathy) raises a chain of compelling questions about the place and perpetuity of corporal punishment in Ghana; about the way parents, educators, and the public at large see corporal punishment. Why, for example, did the congregation, the assistant pastors included-not intervene, but watch the pastor publicly whip the young lads? Is inflicting deep cuts on fingers of a child with razor or (openly) beating children (on an airing television

program) a norm in Ghana? The subsequent sections address these questions by discussing reasons that underscore the prevalence of the act in Ghanaian homes and schools.

3. Socio-Institutional Justification of Corporal Punishment

The use of physical force in disciplining children in Ghana is generally embedded in the cultural and religious beliefs, values and norms of the Ghanaian society. (Kyei-Gyamfi 2011, Twum-Danso 2012). Some identified Ghanaian cultural and religious preference for corporal punishment include:

Cultural Values and physical punishment

Corporal punishment of children in Ghana is primarily underscored by cultural motives. Although Ghana is marked by different cultural beliefs, they all essentially tend to maintain relatively strong ethics thus instilling strong socialization regimes (Kyei-Gyamfi 2011). While some socialization practices certainly differ with cultures, there is a general (cultural) consensus that values such as obedience, humility, respect, honesty, fear of God, and chastity, as well as duty to the family and society are essentially desirable, and thus important for the socialization of children (Twum-Danso 2010). One unifying perception about these supposed core values is that, if cultivated, lead to some instrumental benefits to individuals themselves, and society as a whole. At the individual level, people will be become responsible autonomous beings, morally upright, law abiding, as well as exceling at everything, and so forth. The other instrumental benefit argument of these values, probably one which is in itself an empirical claim like the first one, is the assertion that it makes society morally stable; a limitation or absence of them leads to moral decay in society (Twum-Danso 2012).

In view of the above perceived intrinsic and instrumental values, and the fact that childhood is the beginning of socialization, the idea is that children need to be raised in rigorous ways that they

assimilate the cultural capital transmitted to them by their parents and society (teachers and adults) with no room for recalcitrance (Agbenyega 2006). This proposes the idea of compulsory imposition of cultural capital. The perception is that the most effective way of instilling these values is the use of physical force herein physical punishment. The perception about the effectiveness of physical punishment runs through the various cultures in Ghana. Parents and child rearers believe that not only is physical efficient in securing compliance from children as well deterring misbehaviour, but as stated, it is intrinsically and instrumentally good for children. No matter how and what kind, adults believe that physical punishment is not abusive (Kyei-Gyamfi 2011). The atmosphere of ‘punishment and fear’ have been the bedrock of child rearing in Ghanaian communities, both at home and school. Society hardly frowns at parents who physically punish their children, but however condemn parents who are viewed as ‘sparing their children the rod’ (Agbenyega 2006).

Although the trend is changing, that notwithstanding, because of the perceived effectiveness and benefits of corporal punishment, a parent will hardly question a teacher or an adult for hitting their child (for misbehaving). One reason parents would normally not question an adult (for example, a family member) or teacher for punishing their child is the communitarian nature of the traditional Ghanaian society. The principal communitarian principle is the communal ownership of children and an associated shared responsibility in upbringing- ‘one person gives birth, but not one person raises a child’ (Twum-Danso 2012).

Religious Imperatives and Corporal Punishment in Ghana

Ghana is identified as a profusely religious state where every facet of life or society are viewed from religious epistemologies (Agbenyega 2006). Incidentally, parenting style and child-rearing practices in Ghana tend to be influenced by religion. That is to say religious motives play important

role in the use and acceptance of corporal punishment in Ghana. The decision to use physical punishment in Ghana are greatly influenced by three religious perceptions- the *duty based argument*, the *effectiveness argument*, and *the love argument*.

To begin with, with Christians forming about 70% of Ghana's population, it is obvious that Christian perspectives would shape child-rearing practices in the country. Judeo-Christian parents like most Fundamentalist-Christian parents in the world, believe that parents per Proverbs 22:6 have a moral and religious duty to discipline their offspring. Even more, God requires that parents carry out this duty with the rod (Proverbs 13:24), a discipline technique proposed and justified by God. At that point, from the *duty based perspective*, whether using the rod is effective or not is immaterial, as their sacred parental duty is to use the rod. In Twum-Danso (2010, 34), a parent admits, "I only do it (i.e. physically punish her children) because the Bible says it. Otherwise I wouldn't do it ...". From the duty based argument, child bearers believe that failure to use the rod denotes failing in their religious obligation as being responsible for the religious and moral upbringing of their offspring (Kyei-Gyamfi 2011, Agbenyega 2006)⁴⁸. The second largest religious sect in Ghana, Muslims, also believe that Islamic teachings oblige parents to beat their children if they neglect their duties to Allah (God).

Perceptions of effectiveness of corporal punishment is also rooted in Christian teachings in Ghana. Christian parents believe that the bible teaches that children are naturally foolish (Proverbs 22:15), and the best prescribed way of dealing with their (i.e. children's) foolishness is physically beating

⁴⁸ The focus on the Christian Bible, especially passages from the Book of Proverbs, in justifying the use of corporal punishment as a moral obligation as we observed in the previous chapter is prevalent in other societies, particularly in the United States where most conservatives and fundamentalists Christians often interpret the biblical teachings in the same literal sense (Ripoll-Nunez and Rohner 2006).

them out. Speaking of which, Christian parents therefore believe that the rod (i.e. the cane as it is synonymously called), is intrinsically good for children (Twum-Danso 2010)⁴⁹. In a retributive sense therefore, if children do foolish things they deserve to be reformed, and the best way of reforming children's behaviour is through corporal punishment. The precept is that withholding physical punishment promotes indiscipline⁵⁰. From the Islamic perspective, Muslim families in Ghana also believe that the rod should be 'hanged' on children, as it is the efficient way (after all other options have proved futile) to deter, and seek compliance from children (to observe their religious duties to God). The percept amongst Muslim parents in Ghana is that physical punishment is morally justified not only for the above reasons; it is also justified because it instrumentally prevents children from becoming reckless and liable future adults⁵¹.

Lastly, parents generally conceptualize corporal punishment as an expression of love, and a gesture of care. Although it is a secular perception that if we care about our children and indeed love them, then should invest much in correcting their wrongdoings. This assertion however, is of much importance to Christian parents in Ghana (Twum-Danso 2010, 2012). The idea that spanking is a demonstration of love thus immensely influence the prevalence of physical punishment in Ghana.

⁴⁹ Elsewhere, the idea that corporal punishment is intrinsically good for children is also a common perception amongst Jamaican Christians. Stealy and Rohner (2006) observes that Christian parents in Jamaica interpret the teaching 'spare the rod and spoil the child' in Proverb 13:24 to denote intentional infliction of pain and fear is an inherent part of childhood.

⁵⁰ In Kyei-Gyamfi (2011, 81), a parent is quoted as saying "no elderly in his right mind would beat a child when he or she has not done anything wrong. We punish our children to instill discipline in them".

⁵¹ It is worth mentioning that, although Islamic teaching attributes some goods to physical punishment, it however proposes a balanced approach (limited use of corporal punishment). And this has been the position of some proponents of corporal punishment. I am however of the view that, limiting the use of physical punishment is not enough, as the act is morally wrong. I think we should out of convenience permit people to do something is otherwise morally wrong.

To Christians in Ghana, the Bible advises in Proverbs 13:24 that parents who do not use the rod on their children hate them. Literally interpreted, if you love your children you must punish them with the rod. Even when requiring severe whipping, parents should not withhold inflicting them if they really have the wellbeing of their children at heart; after all, the Bible admonishes (in Proverbs 13:24) that physical punishment do not kill children. Consequently, from the Christian perspective, parents who do not punish their offspring are looked upon with disapproval; they are viewed as failing in their parental duty to love their children (Twum-Danso 2012).

Virtually, in what is likely everywhere, these socio-cultural imperatives of the Ghanaian people have had bearing on state laws in general, and corporal punishment in particular; as what the people stand for is what are made laws. In what follows I shall examine the legal justification of corporal punishment in Ghana. I shall however limit my focus to only the approval of it at homes and schools, as these are the two identified places where corporal punishment takes place. Having traced the legal basis of corporal punishment at homes and schools in Ghana, and pointing to other legal provisions in Ghana, I shall turn to demonstrate a conflict of interest in the treatment of children. As I have maintained, the consensual prohibition of certain forms of violence on children, yet universally allowing some degree of physical force on them creates a disharmony; a situation which requires clarity in theory, law and policy direction, that no form of physical force is permitted.

4. Legal Justification of Corporal Punishment in Ghana

Homes

As previously established, one of the primary settings in which corporal punishment takes place is the home. Some common forms of physical punishment used in Ghanaian homes include canning, beating (with wire, shoes, and so forth) and, slapping. In rare cases also, there are severe ones like

the incidence where the mother cuts the fingers of her son with razor. Other severe ones include inserting grinded ginger and pepper into the vagina of girls for committing moral offences such as disobedience, stealing, pre-marital sex, insulting, poor academic performance, and many others (Kyei- Gymafi 2011). What laws make physical punishment of children a thing in Ghanaian homes?

The perpetuation of physical punishment and the difficulty of its abolition of some violent child practices like corporal punishment at homes is, because of the multicultural makeup of the Ghanaian people (Ame 2011). According to Article 11 (2) of Ghana's Constitution, the laws of Ghana include 'customary law', which by definition in Article 11 (3) are rules of law which by custom are applicable to particularly cultural groups in the country. Indeed, the just explained laws are the laws and practices relevant to peculiar ethnic groups in the country (Ame 2011, 140). With religion being another important multiculturalism aspect, Article 21 (c) enjoins the free practice and profession of any religious faith. Summarising the above provisions, Article 26 (1) stipulates that subject to the provisions of the constitution, people have the legal right to enjoy, practice, profess, and promote any culture, language, tradition, or religion. By exposition, the laws of Ghana lend and affirms parents the protection and support to raise their offspring according to the beliefs and values peculiar to their tradition and religion. Does this connote a sense of public toleration of all cultural and religious child-rearing practices?

As a possible check to what is likely, the abuse of cultural and religious rights, Article 26 (2) of the Constitution prohibits cultural practices that are dehumanizing, and also injurious to physical and psychological wellbeing of people. Consequently, the constitution states in Article 28 (2) that children should not be subjected to torture or cruel, degrading or inhuman treatment. In addition, Article 13 (1) of the Children's Act 1998 prohibits cultural practice that dehumanises or injures

the physical and psychological wellbeing of children. Nevertheless, section 314 (2) of Act 29 of Ghana's Criminal Code provides that parents and family are not culpable for coercion that occur as result of customary practices. Does this mean parental coercion is justifiable? For as it appears, if a Christian parent hit her child with a cord for reason that Jesus their religious exemplified hitting people with cord when they wrong, then she is justified.

Apparently seeking to answer the question of whether parental coercion is justifiable (i.e. clarifying section 314 (2) of the Criminal Code (Act 29)), Article 13 (2) of the Children Act 1998 provides that adults including parents and caretakers (at foster homes) are justified to only use what it terms 'justifiable' and 'reasonable' correction measures. The key question with this legal provision is what a justifiable and reasonable correction is. In other words, how do we define or operationalize just and reasonable correction measures from unjust and unreasonable correction measures? Even more to that, we may also ask, justified and reasonable to whom, according to whose lens? Is it to the law (i.e. an arbitrator of a court of jurisdiction) or to the cultural or religious provisions of a parent? Neither this provision (i.e. Article 13 (2) of the Children Act 1998) nor any of the aforementioned ones against physical force or violence construes physical punishment of children a prohibition. These have been the universal contentious legal questions about corporal punishment.

Schools

Physical punishment of children in school is lawful; it is the primary form of punishment in Ghanaian school system (Agbenyega 2006). Some of the common kinds of physical punishment usually administered by teachers and sometimes peers at schools include; canning, manual weeding of school compound (with machetes, or hoes), kneeling down, and physical drills such as squatting, pulling ears and carrying loads (End All Corporal Punishment of Children 2017).

According to the Education Act 1961, only superior education authorities (head-teachers (principal) and their assistants, or persons authorised by the head-teachers) could administer up to six strokes to children. In other words, (1) all other forms of physical punishment except for canning are prohibited and, (2) teachers and peers (unless permitted by principals) are banned from using physical punishment. Eventually, caning is the most common, and perhaps the legal physical punishment permitted in schools.

Although teachers per Education Act 1961 are unable to administer canning in school, there is however, another avenue through which they are justified to cane or even use any of the other forms of physical punishment mentioned previously. Article 13 (2) of the Children's Act allowing for justifiable correction is one of those avenues. By this, if even principals' refuse teachers the power to cane children, they (i.e. teachers) have the legal muscles to initiate and administer the canning themselves; particularly for those in the private schools. How? First is the lack of precision in the ways the law defines 'justifiable correction measure'. Eventually, teachers including those in both public and private ones can administer some form of measure or punishment they deem reasonably correct. In the case of public school teachers, even if they cannot inflict any other form of physical punishment, they can at least administer caning.

Secondly, constitutional provisions such as religious rights, guarantee private teachers in religious educational institutions to administer the romanticized justifiable corrective measure, or even abandon it completely to employ practices peculiar to their religion. Often, in religious educational institutions like Victory International School, where I had my basic education, a vast majority of the teaching staff are members of the church, and thus bear allegiance to its teachings. This also clear in Islamic schools, where nearly are teachers are Muslims. Teachers in religious intuitions mostly have the backing of parents to train pupils according to the religious teachings. In the

Islamic schools, for example students take compulsory Arabic lessons. From a personal experience at Victory International School, students are trained strictly according to the Deeper Life Christian teachings. For example, being taught to revere God, we had Worship (church) service every Friday. Sometimes teachers hit us hard with canes, or made us kneel down in front of our peers if we refuse to observe Deeper Life Church practices such as clapping, or compulsory wearing of veil (for the ladies), irrespective of whether your parents are members of the church or not. In addition, in communicating the ideals and practice of the Catholic faith, the most significant bye-law of my secondary school was compulsory evenings and Sundays mass. Penalty for non-observance of these services include canning, manual work like weeding, cleaning staff washroom, and even expulsion from residence and so forth. Government directives advise against the use of physical force in religious schools, yet there has been no clear policy direction to that effect (End All Corporal Punishment of Children 2017).

The use of physical punishment in Ghanaian educational system also rest on some assumed importance and efficacy of the act. First is the appealing way in which corporal punishment has been morally conceptualised as a necessary ‘corrective measure’. Indeed, school (formal education) comes second to the home as the primary avenues of child socialization, thus a very significant place for training children in ways beneficial to children themselves and the state. That the school is an important place for socialization is admissible, yet I believe that we do not want to argue that we cannot socialize children (at school) without physical force. Another traditional idea that influences corporal punishment in Ghanaian schools is the belief that, the efficient way of facilitating teaching and learning is through physical punishment (Twum-Danso 2010). As Agbenyega (2006, 111) puts it, punishment is believed as a motivation for learning, as children generally fear punishment. Children’s academic performance are believed to be improved by

physical punishment. Indeed, the idea that (physical) punishment has some academic efficiency on pupils meritorious; from a personal standpoint I obtained higher grades sometimes after being physically punished. In fact, the scar on left hand reminds me of my academic achievements at the basic levels. That notwithstanding, studies show that corporal punishment leads to poor academic performance, truancy, and eventually increased enrolment retention in school, at least in the Ghanaian experience (See e.g. Asonaba 2015)⁵². Moreover, as I have maintained so far in this study, the morality of corporal punishment outweighs any associated benefits. In other words, whether corporal punishment is effective or not is inconsequential to the moral permissibility of the act, and a call for its universal abolition.

5. A Duty to Abolish: Is Physical Punishment exempt from Universal Moral Scrutiny?

Discussions from the earlier sections established that Ghana is state party to the CRC, and has done quite considerably well in the protection of children. The Trokosi system and the FGM for example have been legally banned, irrespective of the cultural and religious affinities provided for by customary laws. The idea is that relativists' arguments in favour of these acts (i.e. the Trokosi System and FGM) are weakened by universal values such as respect for human dignity, right from coercion and pain, as well as the idea that those traditional practices have some physical and mental costs. However, the moral and legal standing of physical punishment in Ghana reflects the general public opinion that corporal punishment is asymmetry to some of other 'violent' child practices abolished, thus could not be treated as such. In view of this, physical punishment we observe

⁵² Asonaba (2015) studied the effects of corporal punishment on student enrolment and retention in six Ghanaian schools. The author observes while corporal punishment had some academic and behavioral benefits on students who are academically poor and recalcitrant; it however resulted in an enrolment retention rate of 77.89%. Most students eventually dropped out of school because they did not find school a happy environment.

occupies anomalous place in laws of Ghana; I find this erroneous. The abolition of some physical force and permitting others connotes moral and legal injustice. In what follows, I attempt to draw moral symmetries between corporal punishment, the FGM, and the Trokosi system. I then turn to highlight some legal inconsistency which together with the moral symmetries support my claim that corporal punishment should be abominable on the basis of the same established universal human rights principle that guide for example the FGM.

Why corporal punishment is morally equivalent to the FGM and the Trokosi System

First, I think that corporal punishment is carried out without medical diagnosis just like the FGM. Admittedly, corporal punishment fundamentally does not involve removal of any part of the human body; there are however, situations children could lose part of their bodies: imagine a child who loses an eye because of physical punishment. In fact, the eye may have not been deliberately removed unlike in the FGM in which the clitoris is intentionally amputated. Nevertheless, I believe we do not want to argue that an army trainee who accidentally shot to kill during training session is justified. The unintentionality of the act does not justify the killing. Limiting the moral justification of act primarily

The central theme here is that corporal punishment like the FGM is equally carried out without medical diagnosis, hence equal moral significance. Another objection to my point will be that the FGM is an irreversible act, thus asymmetric to corporal punishment. One may argue that corporal punishment at worst mostly leaves wounds and scars that are revisable. Plausibly so, however, again, imagine the child who loses an eye because of corporal punishment. What I want to propose here is that the effects of corporal punishment could equally be irreversible as in the above example.

Another possible critic to my view that corporal punishment is symmetrical to FGM is that, the latter is more severe than the former. The objection will be that female genital mutilation is done under harsh physical conditions, with victims sometimes bleeding to death. I delay my response to the assertion that FGM is harsher than corporal punishment to the next paragraph, but respond to assertion that, what else does it do; corporal punishment is far from resulting in serious conditions such as death? In fact, a majority of the FGM victims do not also perish, just as one would argue about corporal punishment. Demonstrating that corporal punishment also, leads to death see Rochman (2012), where a third-grader, 9-year old girl, suffered seizure and dies after being subjected to three hours run for allegedly lying eating a candy bar. See also Alhassan (2013) where three pupils are beaten to death at school for reasons such as failing to do assignments and truancy. To make my argument even more persuasive, how is cutting the fingers of a child with razor for allegedly stealing different from cutting the clitoris of a female child, de-facto. At this point, the second argument I seek to advance is that pain has equal moral significance. Pain is something we all desire not to have, and as a matter of morality, inflicting whatever pain on others for unstated medical reasons (just in both cases) is unjust. The pain and discomfort suffered by children, and the risks imposed on them as result of corporal punishment are equally significant like that of FGM. They are both in essence cruel and degrading acts as they undermine the very human dignity of their subjects.

As previously suggested, idea that FGM is harsher than corporal punishment makes the two asymmetric. I am of the view that assertion is a red herring. As I have partly demonstrated previously, both are equally physically indemnifying. Addressing the issue further, condemning FGM over corporal punishment strictly in terms of harshness will fail vis-à-vis other considerations. Imagine for example that we are able to cut the clitoris of the victims through

nonviolent-sophisticated means; an important question is that will there be a premise for us to justify cutting their clitorises? Clearly, I assume that we would not want to say yes, except we want to make some cosmic moral claims. In fact, even if there were some nonviolent-sophisticated means by which we can amputate clitorises, we might want to argue that FGM is coercive; a consideration that leads to my third argument. Against the above views, even if corporal punishment is non-violent as its proponents assert, it is in equal terms carried out without children's consent just in the FGM. Peculiar to the Trokosi system however, it is conceivable for one to argue that, in the retributive sense, one should not suffer the penalty for others' wrong, at least. To some extent, it indeed makes corporal punishment dissimilar to it. This however does not suffice the argument that it is a serious moral issue than corporal punishment. Invariably they are both coercive child practices. All I seek to argue is that if we ban FGM and Trokosi System due to concern for individual's right to be free from coercive acts, pains, as well risk concerns, then it follows that corporal punishment should be simultaneously banned because it is equally coercive, degrading, discomfoting, and risky.

A conflict of Interest: Criminal atonement and Physical Punishment

Admitting and recognising the fundamental universal dignity of citizens, corporal punishment as a matter law, is unlawful as atonement for crime in Ghana just like most states. Pursuant to Article 1 of the 1972 Prison Service Decree, citizens should not be subjected to torture or degrading punishment or any other acts that is likely to detract from their human dignity.

6. Conclusion: Rethinking the relativist's conceptualization of corporal punishment

With regards to the physical use of force on children, while some controversial child rearing practices which involves the use of force on children have been banned on some universal moral grounds, little attention has however been paid to physical punishment, at least from the Ghanaian

experience. Ghana is a signatory to both the United Nation's Universal Declaration of Human Rights (UDHR) and United Nations Convention on the Rights of the Child (UNCRC), where the latter mandates it to abolish all forms of physical force used on children. Although affirming the UNCRC and abolishing certain child practices such as the Trokosi system and the Female genital mutilation (FGM) on some firm universal moral grounds such as such as human dignity, pain, and adverse risks, physical punishment has however been treated as a disjointed moral issue for two suggestive reasons. First is the contention that the aforementioned abolished child practices are of more moral significance than the physical punishment. Secondly, as a multicultural state, the laws of Ghana allow children to be raised according to the cultural and religious ideals of their parents. However, we observe that the legal framework of Ghana's human right discourse bans coercive acts on all citizens irrespective of any customary law; a seemingly clear inconsistency in the state's posture towards protecting all persons from violence.

As I have shown in this chapter, conceptualizing corporal punishment as a universal moral issue is fundamental to achieving its universal abolition. If states like Ghana have banned some child rearing practices on universal moral grounds, then it is required of that same state to protect every child from all undesirable coercive practices that are symmetrically uncomfortable, derogatory, and risky. Making a compelling case to that effect, I demonstrated how physical punishment is symmetrical to the abolished Trokosi and FGM systems in Ghana. In fact, I argued that physical punishment like the FGM and Trokosi system is coercive, derogatory, painful, and risky. If my demonstration is plausibly then a call for universal abolition is a significant forward step.

Although I have argued strongly that banning FGM and allowing corporal punishment constitutes a paradox or inconsistency in the way Ghana have dealt with coercive child rearing practices. However, one may argue that one way Ghana could remedy the inconsistency is by reinstating

both the FGM or Trokosi system. Indeed, if Ghana had not banned the FGM and Trokosi they would not be inconsistent. The primary argument this thesis makes is that corporal punishment of children is bad, and ought to be abolished on deontological grounds. The discussion in this chapter was to partly to demonstrate how Ghana recognises that aggressive child rearing practices such as the FGM and Trokosi system are bad and impermissible moral acts for deontological reasons. The force of the consistency argument in this chapter was to propose that all forms of child rearing values that do not conform to the deontological values I argued for in the previous chapters are wrong and morally impermissible. Such acts include the Trokosi system, FGM, and physical punishment. Remedying the inconsistency by reinstating the FGM and Trokosi does not make the acts good. For deontological reasons, they would still be bad like corporal punishment.

CHAPTER 7

Conclusion

Should Corporal Punishment of Children Then Be Abolished Everywhere?

The overarching purpose of this study examines two questions about corporal punishment of children. Corporal punishment is conventionally held as the best way to discipline children; it is something good for children. In fact, most people rarely think about the veracity of this assertion, and the moral appropriateness of the act. As a small step to ignite the need to care about this assertion and our treatment of children in general, this thesis focused on two questions about corporal punishment of children. The first question is whether corporal punishment is effective. That is does corporal punishment achieve its proponents stated aims? The second is independent; whether corporal punishment is effective or not, is it morally permissible? This thesis demonstrated that the empirical evidence in support of corporal punishment fails, and even if it was effective, it is not morally defensible, because it violates children's moral rights to security of the person. Although this thesis has established that corporal punishment of children is empirically and morally indefensible, however, some aspects of the study require further consideration. The focus of this concluding chapter is to provide a synopsis of the thesis, discuss its findings, identify the limitations of the study, and present prospects for future study on corporal punishment of children. Finally, this thesis ends on a note of meditation, as I consider the question, should corporal punishment of children then be abolished everywhere?

Summary of Arguments

The first chapter of sets the tone of the study. The chapter captures the conventional narratives of corporal punishment of children, while it further goes on to point out the need to examine these conventional narratives. The narratives tell of how society's resort to corporal punishment is

premised on some assumptions that corporal punishment is the best way to induce children's compliance and deter misbehavior. The narratives also tell of how corporal punishment is seen as being proper for children's own good, in that, it is useful in helping children flourish as children, and molding children into the kinds of adults it is good for them to become. However, this thesis argued that these conventional narratives require empirical and philosophical scrutiny.

The empirical scrutiny requires that we explore whether corporal punishment of children really achieve its stated goals. To demonstrate why a philosophical scrutiny of the conventional narratives is in order, the chapter pointed out that corporal punishment constitutes a coercive act, which requires reasonable moral grounds for its execution. Having established these two questions as the principal questions this study deals with, I held a differing position to the conventional narratives that corporal punishment is ineffective and morally wrong. To ascertain the veracity or otherwise of the efficiency of corporal punishment, the text relied on secondary empirical studies. This chapter pointed out that examining the moral permissiveness of corporal punishment requires that we test moral principles against our pre-theoretical commitments to see if they are harmonious with each other. The chapter thus argued that it is through the active invocation of the reflective equilibrium approach that the moral question of corporal punishment could be resolved. The significance of the reflective equilibrium approach is twofold: it allows us to modify our moral principles about corporal punishment, or it allows us to abandon our convictions. Having achieved these fundamental parameters, the study was able to proceed with establishing nomenclatures.

The literature on physical punishment of children presents varying scope and definitions of the term corporal punishment. The varied ways in which the term had been defined and construed placed a daunting task on how the moral and empirical questions should be addressed. The study thus needed a sound definition, one that would differentiate corporal punishment from other forms

of punishment. The thesis captures in chapter two, the limited ways in which corporal punishment has been defined. More crucially, the chapter goes on to present a broad definition. The guiding question of this chapter is what is corporal punishment?

The chapter begins by challenging how the literature construes corporal punishment as discipline. This thesis argued that the educational meaning of the word discipline under no circumstance connotes forceful correction, or infliction of pain and suffering, either physically or otherwise. The chapter argued that once correction of a child involves physical, emotional and psychological costs on children, it crosses the child-discipline boundary to child punishment. When admonishment of children involves intentional infliction of pain on their bodies, it constitutes corporal punishment.

The chapter proceeds to address how some philosophers and ethicists define corporal punishment by contrasting it with physical abuse. The physical punishment/physical abuse dichotomy thesis rests on an argument that, to label a punishment as physical punishment the sole aim of the punishment should be inducing pain, and discomfort, and not necessarily injury. The limitation of the definition and scope of corporal punishment to consequences was challenged. I defended a position that both punishments are coercive physical activities inflicted to cause pain and discomfort on the bodies of children. Suggesting a harmony, I argue that a sound definition of corporal punishment should encapsulate the intentions of the punishment, consequences of the punishment, as well as the nature of the act itself. Ultimately, I proposed that a sound definition of physical punishment should be, any punishment, which regardless of the consequences, is inflicted on whatsoever part of children's bodies to cause pain, either physically, emotionally or psychologically. From this grounding, the study proceeded with a review of the literature in chapter 3.

Chapter 3 reviewed the literature to explore where this thesis fits concerning the current literature on the philosophical and empirical dimensions of corporal punishment. Reviewing the literature on corporal punishment of children, we discover that the act has been justified on four main philosophical grounds; the consequentialist, retributivist, utilitarian, and parental entitlement justifications. While the first three resort to theories of punishment, the latter do so by referring to some theories of right. On the consequentialist justification, the notion is that corporal punishment has instrumental values such as deterrence, compliance, and molding children to become better future adults. The retributivist justification is premised on the assumption that we morally obliged to punish wrongdoers, and that punishing children corporally for their transgressions is morally in order. On the utilitarian perspective however, we see that corporal punishment has been justified on grounds that it produces greater utility vis-à-vis other alternatives. Corporal punishment, retributivists argue, is cost and time effective, and mostly punishes only the guilty.

While the above philosophical justifications are plausibly, further review of the literature showed that they are narrow in scope and moral weak, or not empirically indefensible. The review of the literature for example showed that consequentialist defenders of corporal punishment fail to conclusively justify the good of the pain inflicted. Strictly speaking, consequentialist justification fails to demonstrate how corporal punishment produces greater aggregate good than harm. The empirical evidence suggests that corporal punishment has adverse physical and psychological effects on children. Some of these effects include increased aggression, anti-social behaviour, depression and suicide, cultivation and perpetuation of fear and anger, and so forth. The downside of the retributivist justification is that, it gives little attention to the moral status question of children. What the retributivist arguments fail to do is justify how and why we should unjustly punish a vulnerable moral agents who by their physical and psychological characteristics lack the

skills to differentiate right from wrong. I argued that children should be thought how to differentiate between the two through non-coercive correctional techniques as suggested by the definition of discipline. Last in sequence, but not least in importance, like the consequentialist justification, interrogation of the efficacy claim on the utilitarian justification rendered their argument fallible. The utilitarian fails to show how other alternatives could not produce the same utilitarian good. The empirical evidence suggests that corporal is not effective, and other alternatives could the same goods. The only leeway for the utilitarian and consequentialist justifications is that, corporal punishment achieves some short-term efficiency; however, to produce this short-term efficiency, we must administer it spot on with increasing frequency and intensity, which is by no means something we can do. Even if we are able to do that, and corporal punishment was effective, the negative physical and psychological effects makes the act questionable. The substantive normative issue utilitarian defenders of corporal punishment fail to address is whether the moral appropriateness of act is an exclusive determinant of utility maximization.

What some philosophers have try to do is shy away from the empirical failure of the consequentialist, retributivist and utilitarian justification to argue that parents morally speaking have the right to raise their children in ways they deem fit. This view we saw is an attribute of the proprietary theory, the view children are property of their parents. More also, children the moral status of children makes them non-right-bearers, as they lack normative agency or autonomy. The review yet again shows that the above contentions are implausibly narrow, as they fail to consider other contending right theories. Defenders of the parental entitlement argument solely referred to parents' interests with insufficient regard to children's interests, while also failing to substantiate the controversial claim that children are property of their parents. In fact, chapter five of the thesis

demonstrates the conceptual frailty of the parental liberty argument, as well as the moral status of children argument. Following the empirical failure and the conceptual frailty of the four philosophical justifications of corporal punishment, the chapter made two concluding observations. First, that the failure of the empirical evidence provides sufficient grounds for us to close discussion on the question of whether corporal punishment is effective. Secondly, that given the conceptual frailty of the existing philosophical justifications, a search for new theory is in order. The rest of the thesis was thus dedicated to the varied ways we could determine the moral permissibility of corporal punishment of children. My position was that we should look at corporal punishment of children from the Universalist and rights-based perspectives. While chapter four addresses the former, chapter five addressed the latter.

In making a case against corporal punishment of children, I argued in chapter four that we should examine the moral permissibility of the act from Universalist theory perspective - a philosophical argument that certain moral ethics apply universally, a variant of the moral relativism theory that holds that there are no universal moral ethics. The definition of right and wrong, as well as what is morally permissible and which is not are determinants of the prevailing socio-cultural ideals such as history, traditions, objectives, aspirations, beliefs etc. Morality on the moral relativist perspective is subjective and conventional, which requires maximum recognition from outsiders. The notion of maximum respect for the norms and values of every society consequently presents disconcerting challenge to universal moral justification of corporal punishment of children. It provides legitimate grounds for some proponents of corporal punishment to argue that the moral permissiveness of corporal punishment should be looked strictly from cultural perspective. The position of the cultural relativists, that is, proponents who claim that corporal punishment should be looked from cultural perspective is that, the different modes of child rearing, religious reference

and attitudes as well as the relative definition and scope of corporal punishment are central to the moral justification of corporal punishment. Cultural imperatives under any moral analysis trumps universal norms.

Chapter four however establishes that diversity is morally desirable and valuable, yet advances two persuasive universal moral arguments against the relativist justification of corporal punishment; the universal dignity of humanity, and the universal effects of corporal punishment. The chapter argues that irrespective of individual and cultural attributes, humans are of the moral value. No human is morally worthy than the other. We have the same body systems, physical, which requires the same physical, psychological, and health security. Every human is an end in themselves, and that our treatment of them should affirm their dignity or moral value as humans. It is from this position that I argued that children as human have the same moral value in spite of racial or ethnic variation, requiring that our treatment of them be equal across space. Any cultural transaction with them should first affirm their inherent moral value.

Premised on the universal dignity of humanity, the chapter further argues that given the universal body system of humans, certain things equally hurt us. All humans equally feel pain, and equally suffer damage to the heart or brain through similar or same actions. For example, a poisonous substance in the human body or seizure of air to the lungs has the same effect on everyone, irrespective of cultural attributes. The chapter thus in effect argue that the negative effects associated with corporal punishment would be same on children. It is for the above Universalist arguments and the failure of the empirical evidence that the chapter concludes that under no cultural state of affairs is corporal punishment of morally justified.

Putting aside cultural issues, chapter five demonstrates how exploration of corporal punishment from a rights-based perspective further helps with moral justification of the act. I argued in chapter

five that an alternating way of look at corporal punishment of children is exploring from a rights-based perspective, whether people have a moral right to it. Answering this question as we see largely depends on which of the two theories of right is invoked in the analysis. Invoking the will theory of rights that is the moral demand of society to secure and promote personal autonomy or normative agency, make children non-right bearers, as they lack the capacity for personal autonomy. However, if the theoretical pleas of the interest theory were right, and invoked, then corporal punishment of children would be morally wrong, as children possess fundamental interest that is an alternating key to moral right acquisition. The chapter identifies that children like adults and all other human beings have universal interest in security of the person, which is defined as the unfettered enjoyment of individuals of their life, body, health and reputation. Physical, psychological, and health security are fundamental things that make human life go well. All chapter five does is showing that corporal punishment of children violates children's right to security.

The right to security of the person requires that humans are free and protected from coercive and unconsented acts that undermine their physical, psychological, and health security. Chapter five argues that corporal punishment is a microcosm of such treatments which do not affirm its subjects' right to security of the person. It does so by first referring to the definition and scope of corporal punishment as espoused in chapter two of this study. Chapter two puts corporal punishment in the realm of coercive act which inflicts pain and discomfort to children, which is clear undermining of peoples over all well-being. I argued that if enjoyment of persons of their body requires that they are a free from pain. Text establishes that if subjecting children to pain by way of corporal punishment had positive impacts on children, then we may be justified administering it. However given that corporal punishment of children is inefficacious as suggested

in chapter three, it would be morally wrong for us to interfere with children's right to security of the person. The chapter further projects that corporal punishment as evidenced in chapter three has adverse effects on children's development. The chapter thus challenged the conventional assertion that corporal punishment has instrumental benefits to children. The chapter points to the conclusion that parents and guardians should refrain from corporal forms of punishment, as children have the right against corporal punishment. The chapter simply argues that corporal punishment is not children's interest.

Conclusion

Should corporal punishment then be abolished everywhere?

The aim of this paper was to contribute to the academic debate on corporal punishment of children. According to the Reflective Equilibrium Approach, the methodology employed in this study, when there is a widespread and deep disagreement about an issue, as there is with corporal punishment, we need to test moral principles against our pre-theoretical commitments about the issue to see if they are consistent or in equilibrium. An equilibrium between the two means the theory is a good one. The overriding objective of this study was therefore to critically examine the conventional assumption in the most of the literature that for reasons explained hitherto in chapters 2 to 4 of this thesis, it is good and or right to physically punish children. If our moral principles are harmonious with each other, as well as our intuitions, after the scrutiny then the theory or our assumption about corporal punishment good. The opposite is true, if analysis of the assumption proves otherwise at the end, that is not being harmonious with each other, then we were wrong with the assumption. If latter occurs at the end of the analysis, it is required we one of the following; (i) modify the principles (ii) decide that we were wrong about the cases, or (iii) abandon our intuitions about corporal punishment.

Exploration of the efficacy and moral permissiveness of corporal punishment has produced two significant findings. First is that corporal punishment is not effective, the empirical findings do not support the claim that corporal punishment has instrumental and utilitarian benefits as purported by existing literature. Corporal punishment we observe in this study rather has adverse effects on children's physical and psychological wellbeing, which undermines their moral right to security of the person. Corporal punishment is essentially not in children's interest. If the two findings are valid, then clearly our pre-theoretical commitments about corporal punishment of children are wrong. If that is true, then the reflective equilibrium approach challenges us to revise our wrong thoughts about corporal punishment of children. Why do we have to commit to a phenomenon that cannot be justified both morally and empirically?

It is the firm contention of this study that we should completely abandon our intuitions about corporal punishment given that it is morally and empirically indefensible by way of proper legislation. If indeed corporal punishment is morally and empirically indefensible, and particularly has universal effects on children's wellbeing, it is morally prudent of every society to make adequate laws to abolish all forms of corporal punishment of children. The renewed conceptualizations of corporal punishment of children as universal moral issue and right infringing phenomenon is reinforced by the adoption of two important international covenants- Universal Declaration of Human Rights (UDHR) and the United Nations Convention on Child Rights (UNCRC). The UNCRC mandates states to abolish all forms of physical force used on children. However, as we see in chapter six of this research, the case study of Ghana, a signatory of the UNCRC; while the state implicates some controversial cultural child rearing practices which involves the use of force such as the Female genital mutilation (FGM) on universal moral ethics, it treats corporal punishment as a disjointed moral issue. Providing and promoting cultural rights,

the constitution of Ghana allows children to be raised according to the cultural and religious ideals of their parents. This together with conventional assumption that corporal punishment has instrumental benefits explains why corporal punishment is still prevalent in the countries like Ghana that have signed and ratified the UNCRC.

As I have argued consistently in this study, conceptualizing corporal punishment as a universal moral issue is fundamental to achieving its universal abolition. If states like Ghana have banned some child rearing practices on universal moral grounds, then it is required of that same state and every other moral community to protect every child from all undesirable coercive practices that are symmetrically uncomfortable, derogatory, and risky.

Limitations of the study

Although this study contributes to the literature on corporal punishment of children. It is important to acknowledge that the study has some limitations that ought to be highlighted to put it into its proper perspective and domain. First, the study acknowledges that discussion on the empirical dimension of research fall short of thorough investigation or analysis. Thus stand the chance of being critiqued by empiricists. I am unable to prove the empirical findings of this study as empirically valid, as I am not conducting empirical study. This study is conducted as a political theory thesis, and thus my primary interest concern the moral permissiveness dimension of the debate. Whether corporal punishment achieves its proponents' goals is independent to the moral permissiveness of the act. To be sure, there is a huge volume of empirical studies on corporal punishment of children. Not conducting empirical study and lacking the experience as a non-empiricist, I am unable to identify all forms of possible biases while gathering resources on the empirical dimension of the debate. Future research can delve much deeper to establish the veracity

of the empirical findings of this study. This limitation ought to be duly acknowledged and taken into consideration when referring to this thesis for further study.

Secondly, the study establishes that corporal punishment is inefficacious and morally wrong, it is however unable to identify and justify other alternatives to corporal punishment. The findings of this study are not meant to project that children should not be disciplined. In fact, discipline is a moral virtue, and that children have to be disciplined. The focus of this thesis mainly had to do with the moral permissibility of corporal punishment and not identifying, proposing, or defending other alternatives to corporal forms of punishment. Indeed, the thesis mentions of child discipline techniques proposed by some child psychologists. This includes response cost techniques or timeout reinforcement. This thesis cannot presently argue them as morally justified alternatives. The study leaves this aspect of the debate for future research.

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