

## Historical legacies and use of corporal punishment of children in the home, in Italy

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### Abstract

The paper focuses on corporal punishment of children in the home in Italy, adopting a historical, legal, and comparative perspective. Despite international legislation protecting children by excluding any form of corporal punishment, in Italy, the law confirms right of parents to correction. With empirical evidence in mind, which suggests that country legislation is one element that affects indirectly parental behaviors, and that legislation an heritage of a country's history, a historical-critical and comparative analysis becomes central, in order to effectively understand corporal punishment, which continue to be perpetrated to harm of children.

**Keywords:** corporal punishment, history of Italian family education, *Ius Corrigendi*, history of childhood.

### Abstract

Il presente contributo si concentra sulle punizioni corporali inflitte ai bambini nelle famiglie in Italia attraverso una prospettiva storica, legale e comparativa. Nonostante la legislazione internazionale protegga i minori escludendo qualsiasi forma di punizione corporale, in Italia non esiste una norma specifica che vieti le punizioni in famiglia per scopi 'educativi'. Tenendo presente gli esiti delle ricerche, che suggeriscono che la legislazione influenza i comportamenti dei genitori e che, a sua volta, essa è retaggio della storia di un Paese, un'analisi storico-critica e comparativa diventa centrale per una reale comprensione delle punizioni corporali che continuano a essere perpetrate in famiglia ai danni dei minori.

**Parole chiave:** punizioni corporali, storia dell'educazione familiare italiana, *Ius Corrigendi*, storia dell'infanzia.

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## *Introduction*

The non-legitimacy of corporal punishment in parenting is based on the primary dignity of the individual minor and his or her rights and on the results of research, which expose the contradictory and inadequate use of methods that end up reinforcing the conviction that relationships are determined by violence. However, despite international legislation protecting children by excluding any form of corporal punishment (Committee on the Rights of the Child, 2006; Global Initiative to End All Corporal Punishment of Children 2015, 2016, 2018, 2019), including that in the family, the percentages of minors who suffer such forms of mistreatment continue to be decidedly high. Since the extent of this phenomenon differs from country to country in a way strictly connected to its legislative and cultural history – as suggested by the empirical evidence – a historical-critical analysis becomes central to a real understanding. The purpose of this paper is to show how the historical legacies have affected on the Italian legislation and on the current use of corporal punishments of children in families in Italy. The perspective adopted to pursue this purpose and to treat the theme of corporal punishment is both historical, legal and comparative. In fact, to understand the current law which confirms a right to correction in Italy it is necessary to examine the legitimization in full fascist regime of the *Ius Corrigendi* (Ministro Guardasigilli<sup>2</sup> Alfredo Rocco, by Royal Decree no. 1398, October 19, 1930). The comparative perspective to compare the situation of Italy and Sweden (the first country in which corporal punishment of children has been banned, in 1979) is particularly important to show how much the different legislation affects on the levels of corporal punishment of children inflicted in the family.

### *1. Corporal punishment in the home: the most common form of violence against children*

The Committee on the Rights of the Child, in its *General Comment on Children's Right to Protection from Corporal Punishment*<sup>3</sup>, defines “corporal” or “physical” punishment of children as:

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<sup>2</sup>In Italy, the Minister of the Privy Seal, Editor's Note.

<sup>3</sup>In the *General Comment* No. 8 (2006) of the Convention on the Rights of the Child, “child” is defined as «every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier» (p. 4).

any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. Most involves hitting (“smacking”, “slapping”, “spanking”), with the hand or with an implement – a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing them to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children’s mouths out with soap or forcing them to swallow hot spices). [...] Corporal punishment is invariably degrading. In addition, there are other non-physical forms of punishment that are also cruel and degrading. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child (2006, p. 4).

Under the *Convention on the Rights of the Child* (1989) states have an obligation to prohibit it in all of its forms and to act effectively to implement this ban. This form of violence against children takes place in many settings, including within the home and family (Committee on the Rights of the Child, 2006). The abuse that is consumed in the family has specific characteristics, causes and consequences. These families often have a tendency to close in on oneself and sometimes to live the behavioral discomfort with shame and guilt. The research also underlines a close connection between punishment suffered by parents and subsequent acts of violence committed by them on their own children (Miller, 1983, It. transl. 1991, and 1984, It. transl. 1990).

A specific feature is also given by the frequency and the extent of the phenomenon: international and national statistical data agree on the assessment that the mistreatment suffered by children takes place in about 90% of cases in the family, and according to World Health Organization (2016), for one case that emerges, there are nine that are not recognized and treated. Although today it is statistically clear that most child abuse is perpetrated by parents or family members.

Some countries are reluctant to prohibit corporal punishment of children in the family. Among these countries is Italy, where the law confirms a right to correction and there is no specific rule prohibiting punishments for “educational” purposes against children in families<sup>4</sup> (Global Initiative

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<sup>4</sup>In the Italian educational system, regulatory measures aimed at their elimination began to be enacted since the creation of the school of united Italy: already the article 98 of the “*Regolamento scolastico*” published with the “*Regio Decreto*” (the royal decree, Editor’s Note) no. 4336 of September 15, 1860, the first of the united Italy, forbade «offensive words, beatings, signs of ignominy, corporal punishment, such as forcing to kneel

to End All Corporal Punishment of Children, March 2019), but is only a ruling by the Italian “*Cassazione*”<sup>5</sup> Court in 1996 (Section IV, March 18, 1996, Sent. no. 4904). The Italian *Cassazione* states that it is unlawful to use any form of violence, physical or mental, in the educational process. But, as stated in the report on *Corporal Punishments in Italy* (Global Initiative to End All Corporal Punishment of Children, March 2019) promoted by the Global Initiative to End All Corporal Punishment of Children, the near universal social acceptance of corporal punishment in child rearing must clarify the laws to stipulate that no level of corporal punishment is acceptable. The “right to correction”, which includes all enactments of corporal punishment and other cruel or degrading forms of punishment in the home and all other settings, where adults have parental authority, should be explicitly repelled and prohibited (Global Initiative to End All Corporal Punishment of Children, March 2019). The reluctance of state legislation to enter into the merits of the family “education” of children has historical, cultural and social roots.

## 2. “Discovery” of child abuse: a recent phenomenon

Globally, it has only been since the mid-1960’s that it is possible to pinpoint the origin that has led to the deviant labeling of child beating, which promoted the speedy and universal enactment of criminal legislation. An account of the history of criminalization of punishment of children perpetrated by parents is beyond the scope of this article. I will limit myself in this section to provide a quick view of one important milestone in the international advance of humanitarian pursuit.

Despite documentary evidence of child beating throughout the ages, the discovery of child abuse as deviance and its subsequent criminalization are recent phenomena (Pfohl, 1977). The purposeful beating of the young has for centuries found legitimacy in beliefs of its necessity for achieving

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or with open arms etc., the “penso”, when they are not the simple repetition of a bad job»; the “*Regio Decreto*” no. 1297 of April 26, 1928 reinforced this prohibition, even if the fascist approach of the school did nothing to favor a real change of course, given that it indicated in the strength and constraint two educational instruments dear to the State both in domestic and foreign policy. (Di Pol, Coggi, 2017, pp. 48-49; what quoted in this footnote has been translated by the Author, Editor’s Note).

<sup>5</sup>The Supreme Court of Cassation; in Italy, the Supreme Court is placed at the top of the ordinary jurisdiction, Editor’s Note.

disciplinary, educational or religious obedience<sup>6</sup>. Both the Roman legal code of *patria potestas* (that is, parental authority<sup>7</sup>), and the English Common law, gave parents or legal guardians limitless power, with the right to impose any punishment deemed necessary for the bringing up of their children, who had no legal rights to protection (Pfohl, 1977).

In the 17th century, a period dominated by institutions and religious values, severe punishments were considered necessary for education of children. Even in the late eighteenth and early nineteenth centuries, a period marked by the decline of religious domination. There was a rise in rationalism and a proliferation of statutes aimed at codifying unacceptable human behavior. There were no attempts to prevent caretaker abuse of children. Afterwards, primary emphasis was on the protection of society, so children, not their parents or abusive guardians, were institutionalized. But the failure of institutionalization to “reorder” individuals became increasingly apparent (Pfohl, 1977). However, a manifest contributed to the advancement of humanitarian pursuit which discovered the so-called “battered child syndrome”: the 1962 publication of the article entitled *The Battered-Child Syndrome* (Kempe *et al.*) was the symbolic focal point for the acceptable labeling of abuse.

### 3. *The Italian context in the early 20th century*

#### 3.1. *Proposed measures for the protection of children against abuse of patria potestas, in the first decade of the 20th century*

In this section, an insight on the issue of the protection of children against abuses of *patria potestas* in the early 20th century, in Italy, is of-

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<sup>6</sup>Even today, some countries raise faith-based justifications for corporal punishment, suggesting that certain interpretations of religious texts not only justify its use, but provide a duty to use it. Freedom of religious belief is upheld, but practice of a religion or belief must be consistent with respect for others’ human dignity and physical integrity. Freedom to practise one’s religion or belief may be legitimately limited in order to protect the fundamental rights and freedoms of others. In certain States, the Committee has found that children, in some cases from a very young age, in other cases from the time that they are judged to have reached puberty, may be sentenced to punishments of extreme violence, including stoning and amputation, prescribed under certain interpretations of religious law. Such punishments plainly violate the human rights standards (see Committee on the Rights of the Child, 2006).

<sup>7</sup>In Italian, “*patria potestà*”, Editor’s Note.

ferred. The source is a volume published in 1910, entitled *La protezione dell'infanzia contro gli abusi della patria potestà*<sup>8</sup> (by Augusta Segre<sup>9</sup>) photographs the alarming social phenomenon of juvenile delinquency. Italy was not the only country behind the first intervention measures by magistrates, statesmen, philanthropists and sociologists to address child abuse in the family. The other element of interest of this volume is the passage in review of the foreign laws that preceded Italy in the reform of this «highly social function» (Segre, 1910, *Introduction*<sup>10</sup>), and in the comparison with respect to the «insufficient coordination of our laws», though Italy has offered «luminous proof of having entered the path of reform» (*Ibidem*). The topic of the protection of children against the

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<sup>8</sup>In Italian, best translated as *The protection of children from abuse of the patria potestas*, Editor's Note.

<sup>9</sup>Augusta Segre was a lawyer and a volunteer of the “*Comitato per la difesa dei minori*” (the Committee for the protection of children, Editor's Note), the first and most important Italian institution for the defense of minors. The *Comitato* was created in 1907, in Turin, by the deputy (in Italian, “*procuratore deputato*”) of the King, lawyer Giuseppe Cesare Pola Falletti, who was painfully struck by the vision of many children brought to court, tattered, haggard, filthy, most of the time abandoned to themselves, poor victims of the family breakdown or of the social environment, or of physiopathic anomalies. The *Comitato* had a vast field of action: it aimed to protect children under 16 years of age, who (in the Turin district) needed assistance, surveillance and hospitalization, to take care of the application of direct dispositions and promote new measures (paternal and scholastic magistracy, conversion into state institute of assistance of children subject to trial, etc.). The *Comitato* studied the minors translated into court with a practical scientific criterion, to establish which measures, in the orbit of the laws, best met the needs of justice and were more suitable for the moral amendment; it provided defense during the trial for poor minors, and supervised conditionally condemned children through “volunteers”, supporting and assisting them in the difficult probationary period, reinforcing the weak and poor family action; besides this curative work, it exercised the preventive action, providing for the fate of those unfortunate children, who were victims of abandonment, or worse, of that same family, which should be a nest of tranquility and love for them. The *Comitato*, in urgent cases, provided for the hospitalization of the children in well-established institutions at their own expense; he took care of the internment of minors, removed from the unworthy or incapable family, in the various institutions of the city, or placed them with honest families, especially agricultural ones. Not because of lack of activity, but due to the absolute lack of resources and the small number of voluntary members, the *Comitato* was unable, until then, to carry out its action as it wished: until November 1909, the children of which he was involved in were 283, a figure which cannot be despised, if one thinks of the seriousness of certain provisions, the difficulties of hospitalization, the inertia of the authorities and the indifference of the public (Segre, 1910).

<sup>10</sup>In this paper, Augusta Segre's quotations have been translated by the Author, unless otherwise specified, Editor's Note.

abuses of *patria potestas* began to be the subject of attention by magistrates, statesmen, philanthropists and sociologists since the beginning of the 20th century. «Faithful disciple of Roman law», Italy «had hitherto avoided repressive laws on abuses of paternal authority» (*Ibidem*). But the «serious problem of early crime» and by the social threat represented, prompted Italy to understand the «duty of the State to provide for so many young lives» (*Ibidem*):

Not only must there be a stimulus of sentiment, but there should be a necessary, unavoidable duty to ensure that the child is protected from his first entry into the world, his soul educated, his existence protected from assaults due to misery and vices, which can be common causes of youth crime. Children must be removed from impure and unhealthy domestic environments, stopping temptations and preventing them from becoming a harmful and threatening being for society [...]. The children of today will be the citizens of tomorrow. The result of what they become will ultimately determine progress or a decline in society [...]. The father is the first judge of the child's moral and physical education, but must not be an independent and sovereign judge. However absolute the father's right is in principle, it must be exercised normally. The father who has a duty to nurture his children well, does not have the freedom to raise them badly, therefore the children's rights form a natural limit to his prerogatives (ivi, p. 4).

Paternal authority opposing the interest of the child and that of society itself, cannot degenerate in the midst of tyranny and demoralization. «The iussance paternelle c'est le droit du bienfait et non celui de abus» (Henri Taudière, 1898, p. 20). This was said in France by presenting a law stopping the working of children (March 22, 1841). Pisanelli also said: «the *patria potestas* is not a fierce right exercised by the father for his consolation and his interest: it is a family right, which is exercised by the father, mainly for the utility of the whole family and for the benefit of the children» (Camera dei Deputati, 1865, p. 1193; see also the “*Codice civile del Regno d'Italia*”, April 2, 1865)<sup>11</sup>. But this concept, now implemented by all legislation, came from an entirely contrary application. In ancient law, the *patria potestas* was a power established with the mere interest of the person who exercised it:

The son was more than anything else, a tool of work and profit for the benefit of the father. Paternal authority was a real domain, which suppressed the

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<sup>11</sup>What here quoted has been translated by the Author, Editor's Note.

character and personality of the son for the benefit of the pater familias. [...]. Because the family is the precise basis of society, and among many institutions it is fundamental. One must not abandon it when it breaks down, becomes corrupt or falls apart. Its ruin threatens the breakdown of the social structure of society (Conti, 1903, p. 14).

### *3.2 From the legitimization of the Ius Corrigendi, to the lack of a legislative measure that states current use of corporal punishment of children in families is illegal*

The measures of legislation approved in the Italian Criminal Code in 1930, written during the fascist era, confirm the paternal authority that was in opposition to the protection of children. In particular article 571 of the Criminal Code (approved with R.D. October 19, 1930 n. 1398)<sup>12</sup> states: «Whoever misuses means of correction or discipline to harm a person subject to his authority, or entrusted to him for purposes of education, instruction, treatment, supervision or custody ... shall be punished»<sup>13</sup> (Global initiative to End All Corporal Punishment of Children, 2019, p. 2). This article, enunciating the crime of abuse by means of punishment, admits the legitimacy of the *Ius Corrigendi*. The subjects in positions of authority could employ the use of physical or moral violence against those who were subject to their authority, like a father towards his son. Consequently, the means of punishment and discipline only became a crime if the limits of violence were crossed. The *Ius Corrigendi* has continued to have an influence for a very long time, and was debated long after the Republican Constitution<sup>14</sup> (Bandini, 2012).

However, the concepts of means of punishment and discipline have had a historical evolution. Furthermore, this provision does not apply so much to the family environment but is instead aimed at protecting the

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<sup>12</sup>Extended or. title: *Abuso dei mezzi di correzione o di disciplina: Codice penale LIBRO SECONDO – Dei delitti in particolare – Titolo XI – Dei delitti contro la famiglia – Capo IV – Dei delitti contro l’assistenza familiare.*

<sup>13</sup>Translation taken from Global Initiative to End All Corporal Punishment of Children, *Corporal Punishments in Italy* (last update: March 2019), p. 2.

<sup>14</sup>In 1948, the Republican Constitution states the foundations for a state intervention on the family in case of parental incapacity were placed. The Republican Constitution guarantees special protection for children, in particular with the article 30: «In cases of parental incapacity, the law ensures that their duties are fulfilled» and the article 31: «The Republic [...] protects [...] childhood and youth, favoring the necessary institutions».

subject's personal dignity. The transition from the protection of the family – as the “basis” of society – to the protection of the child is a recent achievement. In the second half of the 20th century, the international legislation progressively focused on the rights of the individual child (refer to the ratification of the *Convention on the Rights of the Child* at the beginning of the 1990's). Important events occurred in the 1970's, during and after the student revolts (Bandini, 2012) which imposed strong elements of discontinuities in the Italian cultural panorama.

Currently, «the 1996 ruling that corporal punishment is no longer a legitimate method of discipline. It is not defensible under the right to punishment. However, there has been no law reform to confirm the judgment in legislation by amending article 571 or enacting explicit prohibition of corporal punishment in the home. Though a number of Bills have been proposed over the years» (, p. 2). A recent Bill in November 2015 (Pagliari *et al.*) states that it is necessary to explicitly insert the prohibition of corporal punishment against minors through the repeal of article 571 of the penal code, where the crime of abuse by means of punishment is stated. This was to fill the legislative gap, but above all to change the mentality of those who believe in educational methods based on intimidation or violence. Article 571 not only shows its anachronism in the light of the constitutional framework and international regulatory interventions, but also in the incompatibility with the evolution of family and social relationships. Paradoxically, the application of Article 571 is still possible, and which therefore allows a use of force, justified by the duty to “educate”, in relationships between holders of parental responsibility and minor children (De Stefani, 2012, n. p.). International institutions (Global Initiative to End All Corporal Punishment of Children, 2019) are recommending that Italy amend its legal reforms necessary for the complete prohibition of all corporal punishment of children.

#### 4. *The contemporary Italian scenario*

##### 4.1 *The telephone lines dedicated to children, as a tool for analyzing child abuse*

In the 1980's, the attention to the phenomenon of mistreatment and abuse of children in Italy exploded with the establishment of telephone lines dedicated to children. Unfortunately, there is currently no systematic monitoring by institutional bodies, which allows for an updated,

complete and exhaustive picture of the spread of mistreatment to the detriment of children and adolescents. However, we know that a significant number of parents resort to corporal punishment with their children. The telephone consulting activity offered, in Italy, by *Telefono Azzurro* represents a fundamental detection and analysis tool for reading and interpreting in greater depth the child's unease and child abuse in the Italian scenario. From January 1, 2015, to December 31, 2015, for example, the "*Centro Nazionale di ascolto Telefono Azzurro*"<sup>15</sup> handled 2.680 new cases.

The examination of the data provided by the National Listening Center of *Telefono Azzurro* (helpline, and chat) allows us to better understand the specific ways in which the various forms of discomfort and mistreatment of children and adolescents occur in Italy. From this data (see Fig. 1), it emerges that the main reasons for calls for help in percentage values are the relationship difficulties with parents, and domestic violence (*Telefono Azzurro*, 2016). An analysis of responses confirms a trend now consolidated in the statistics produced by *Telefono Azzurro*: namely parents play a prevalent role in the situations reported, with decidedly high figures.

According to the listening lines, it emerged that the person in charge of the more or less serious situations of abuse, belonged to the circle of people known by the child. While people outside the family/social sphere and strangers represent the minority. However, we can affirm that this data represents a probable underestimation of the phenom-

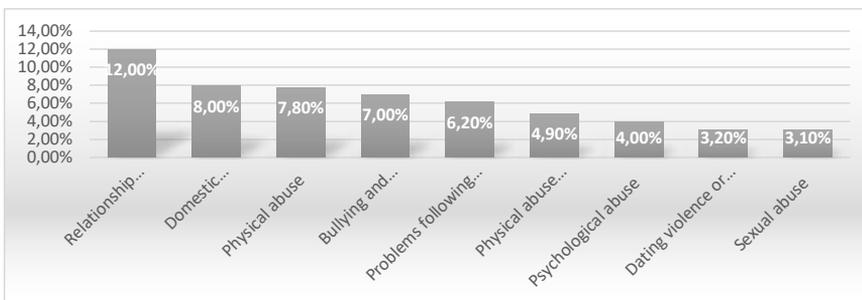


Fig. 1 – Main reasons for requesting help to *Telefono Azzurro*, from January 1, 2015, to December 31, 2015. Source: *Telefono Azzurro*, 2016, p. 6.

<sup>15</sup> National Listening Center of *Telefono Azzurro*, Editor's Note.

enon. The number of cases that remain “submerged” – namely the not reported ones – is actually very high.

#### *4.2 The studies commissioned by Save the Children Italy: percentages, and perceptions*

Further sources of data are investigations commissioned by Save the Children Italy to IPSOS (*Institut de Publique Sondage d’Opinion Secteur*). An investigation commissioned to analyze the relationship between parents and children nowadays, the educational methods used and the use of physical punishment such as slapping (Spadaccini, Mantovani, 2012)<sup>16</sup>, revealed that a quarter of the parents of children between six and ten years old, and a fifth of the parents of adolescents, explicitly declare that slapping is educational (p. 30). 25% of parents who declare to resort to slapping do not consider it a gesture of extreme violence, because it is used sporadically and in extreme situations. The fact of not leaving visible signs blinds the possible effects that slapping can have on the child’s ability to relate. Beyond a third of the interviewees who believe that the child can replicate the act of violence against others, only about 10% perceive the risk of relationship difficulties, due to an excess of aggression of the child (p. 42). A high proportion, between 70 and 80% of the parents interviewed, agree in affirming the need for a training intervention that directs Italian families towards new educational methods, based on dialogue and comparison with their children (p. 40). The socio-cultural change in relations between parents and children that started in the 1960’s in the 20th century has produced above all, uncertainty, which must be managed (p. 43). In fact, the developments that have taken place over the last few decades, far from being neutral processes, are related to the need to educate the family about its tasks, guiding it and controlling its work (Formenti, 2008, p. 79).

Regarding the perception of a new law, a previous survey commissioned and promoted by Save the Children Italy (2009) has shown that in Italy, an interference of the state within family relationships would still

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<sup>16</sup>The investigation took place within the “*Educate, do not punish*” Project, funded by the European Commission, aimed at protecting children from physical or corporal punishment and from other forms of humiliating and degrading punishment in all contexts, including the family context, promoting positive parenting through awareness actions, Author’s Note.

be poorly tolerated: intimacy of the home walls must be preserved. This sentiment is such that within one's own family, in the face of an excessively serious error committed by one's own child, slapping by one parent is tolerated (81% among parents of young children). Although most parents condemn the use of violent means to educate their children, those who are against the law fear its indiscriminate use. In addition, there is a perception in Italy that children are already much protected, and there is therefore concern that the parents' reference and respect for them will be lost. Finally, the lack of trust placed in the Italian legal system acts as a brake on the acceptance of the law (see IPSOS for Save the Children Italy, 2009).

##### *5. Effects of the prohibition of all corporal punishment. A comparison between Italy and Sweden*

Sweden was the first country in which corporal punishment of children was banned in 1979. Since then, many other countries have recognized this fundamental right for children<sup>17</sup> and in a few countries, which have prohibited all corporal punishment, the positive effects of the decreased use of physical punishment are becoming visible. Strong empirical evidence suggests that, within different countries, country legislation concerning family matters as one element of social context affects parental behaviors indirectly (Olivari, Hertfelt Wahn, Maridaki-Kassotaki, Antonopoulou, Confalonieri, 2015).

Concerning corporal punishment of children, a study carried out in 2000, which examined the impact of the ban, found that there had been a decrease in the number of 15 to 17 year olds involved in theft, narcotics

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<sup>17</sup> Albania (2010), Andorra (2014), Argentina (2014), Austria (1989), Benin (2015), Bolivia (2014), Brazil (2014), Bulgaria (2000), Cabo Verde (2013), Republic of Congo (2010), Costa Rica (2008), Croatia (1999), Cyprus (1994), Denmark (1997), Estonia (2014), Finland (1983), Germany (2000), Greece (2006), Honduras (2013), Hungary (2004), Iceland (2003), Ireland (2015), Israel (2000), Kenya (2010), Latvia (1998), Liechtenstein (2008), Lithuania (2017), Luxembourg (2008), North Macedonia (2013), Malta (2014), Republic of Moldova (2008), Mongolia (2016), Montenegro (2016), Nepal (2018), the Netherlands (2007), New Zealand (2007), Nicaragua (2014), Norway (1987), Paraguay (2016), Peru (2015), Poland (2010), Portugal (2007), Romania (2004), San Marino (2014), Slovenia (2016), South Sudan (2011), Spain (2007), Togo (2007), Tunisia (2010), Turkmenistan (2002), Ukraine (2003), Uruguay (2007), Venezuela (2007) (Source: <https://endcorporalpunishment.org/>; last access: 17.4.20).

crimes, assaults against young children, rape and a decrease in suicide. The use of alcohol and drugs by young people also declined. Studies in Finland have found that, since prohibition in 1983, there has been a decline in physical punishment, associated with a similar decline in the number of children who were murdered. In Germany, which achieved full prohibition in 2000, «research has shown significant decreases in violent punishment, which has been linked to decreases in violence by young people in school and elsewhere and reductions in the proportion of women experiencing physical injury due to domestic violence» (Global Initiative to End All Corporal Punishment of Children, June 2016, p. 3; on this topic, see also Pfeiffer, 2014).

A study of the relationship between gender and physical punishment (Lansford *et al.*, 2010) conducted in Italy, Sweden, and other countries used interviews of around 4.000 mothers, fathers, and children aged seven-ten. The comparison between the situation of Italy and Sweden is particularly important: it actually shows how much the different legislation affects the family climate, and in particular, on the levels of corporal punishment of children inflicted in the family. As previously mentioned, Sweden is the first country in which corporal punishment of children has been banned. While in Italy, there has been no law reform to confirm the judgment in legislation, by repealing Article 571, or enacting explicit prohibition of corporal punishment in the home, even though a number of bills have been proposed over the years (Olivari *et al.*, 2015).

Comparing figures between Sweden and Italy relating to corporal punishment, Sweden showed much lower percentages than Italy (see Tab. 1).

The reasons for these results can be found in the different legislations, which in turn depend on the different history of these two countries. In the previous paragraphs, we made a short analysis in the history of corporal punishment of children in Italian families. The history of corporal punishment legislation of children at home in Sweden has taken a different path:

In Sweden, the law excusing parents who caused their children minor injury through corporal punishment was removed from the Penal Code in 1957. In 1966, the provision allowing “reprimands” was removed from the Children and Parents Code. However, these reforms did not explicitly prohibit all corporal punishment in childrearing. Corporal punishment was explicitly prohibited in a 1979 amendment to the Children and Parents Code, which states: «Children are entitled to care, security and a good upbringing. Children shall be treated with respect for their person and individuality and may not be subjected to

**Tab. 1.** Source: Global Initiative to End All Corporal Punishment of Children, January 2018, March 2019

| <b>Corporal punishment of children in Italy</b>  | <b>Corporal punishment of children in Sweden</b>   |
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| <i>Summary of necessary legal reform to achieve full prohibition</i>   | <i>Summary</i>   |
| Prohibition is still to be achieved in the home.<br>The law confirms a right to correction (“ <i>Ius Corrigendi</i> ”)   | Law reform has been achieved.<br>Corporal punishment is unlawful in all settings, including the home   |
| <b>Corporal Punishment of Children in Italy and Sweden, as a Function of Child Gender and Parent Gender</b>  |  |
| A schematic view of the Italian and Swedish results in comparison:   |  |
| <b>in Italy</b>  | <b>in Sweden</b>   |
| 61% of girls and 66% of boys had experienced “mild” corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking; or hitting with an object) in the past month                          | 9% of girls and 6% of boys had experienced “mild” corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking; or hitting with an object) by someone in their household in the past month. |
| 12% of girls and 23% of boys had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears, or beating the child repeatedly with an implement) by someone in their household in the past month.                 | None of the boys or girls had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears; beating the child repeatedly with an implement) by someone in their household in the past month.                           |
| Much smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child: for girls, 5% of mothers and 2% of fathers believed it was necessary; for boys, 4% of mothers and fathers believed it was necessary. | None of the parents believed it was necessary to use corporal punishment to bring up their child.  |

corporal punishment or any other humiliating treatment». The prohibition is reiterated in Chapter 2 article 5 of the Instrument of Government – one of four laws, which together make up the Constitution: «Everyone shall be protected against corporal punishment...». The Penal Code punishes assault (the infliction of «bodily injury, illness or pain upon another») with imprisonment up to two years, or if petty with a fine or imprisonment up to six months (Ch. 3 art. 5); aggravated assault is punished with imprisonment between one and six years (Ch. 3 art. 6) (Global Initiative to End All Corporal Punishment of Children, January 2018, p. 1).

### *Conclusions*

The main purpose of this paper was to show how the historical legacies have affected on the country legislation and on the use of corporal punishments of children in Italian families. The comparison between Sweden and Italy relating to corporal punishment seen above clearly shows this influence. In Italy, where the law confirms the right to correction (*Ius Corrigendi*), still many children who participated in the study had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears, or beating the child repeatedly with an implement) by someone in their household, while in Sweden, where corporal punishment is unlawful in all settings, including the home since 1979, none of children had experienced severe corporal punishment by someone in their household.

Unfortunately, even if the explicit legal prohibition of corporal punishment of children is a *conditio sine qua non*, it is not enough. Although in Italy a legal reform to achieve full prohibition is necessary, given the widespread traditional acceptance of corporal punishment, and the historical and deeply rooted culture, as we have seen, the prohibition on its own would not get the necessary changes in attitudes and practices. Comprehensive raising awareness of children's rights to protection and of laws that reflect these rights will be therefore necessary (Committee on the Rights of the Child, 2006).

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