

9^{ème} colloque international
3 & 4 mai 2018
Inselspital, Berne, Suisse
(French, German, English simultaneous translation)

**To Better Protect Children in Switzerland:
Ban All Corporal Punishment ?**



Organisé par :

Centre interfacultaire en droits de l'enfant (CIDE), Université de Genève (Site Valais), Sion
Centre suisse de compétence pour les droits humains (CSDH)
Haute école pédagogique Valais (HEP - VS), St-Maurice & Brigue
Haute École de Travail Social, HES-SO Valais//Wallis
Institut international des Droits de l'enfant (IDE), Sion
Service cantonal de la jeunesse, Valais

Arguments

To bring up a child, from a state of complete dependency to his or her full development as a responsible adult, is certainly a major parental and societal challenge. Indeed, already in 1776, Emmanuel Kant stated that: “(...) *the greatest and most difficult problem to which a man can devote himself is the problem of education*”. Each parent, each family, each society must rely on its best practices, while knowing that they necessarily reflect a blend of traditional sociocultural influences, educational principles, and legal norms, all of which are constantly evolving and are also partly grounded on the scientific knowledge of a given time.

Currently, in Switzerland, the merits of corporal punishment in the education of children is seriously questioned. Is this practice actually necessary and/or efficient for the optimal education of children in Switzerland? Or, should it be banned based on the considerable amount of international research indicating its inefficiency, and even further its harmful and counterproductive educational, psychological and social effects? Should Switzerland consider finally joining the abolitionist group of 33 European countries that have expressly banned the use of corporal punishment and other forms of cruel degrading treatment, whether physical or psychological, in their Criminal or Civil Codes? Sweden pioneered the ban on corporal punishment already in 1979¹, and the majority of Switzerland’s neighbors have already followed suit: Austria in 1989², Germany in 2000³, and Liechtenstein in 2008. These countries’ legislations comply with the international norms and standards, following the recommendation of UN Committee on the Rights of the Child, require that be introduced into national legislation a “*clear and unconditional*” ban on all forms of corporal punishment (General Comment, n° 8, par. 39, 2006).

For now, in Switzerland, political efforts in order to achieve a ban have not succeeded in reaching a majority in Parliament and convincing the Federal Council (Bundesrat):

- Switzerland has faced numerous injunctions from the international community through the UPR processes in 2008 and 2012, as well as in the Final Observations of the UN Committee on the Rights of the Child (2015) which urged Switzerland to “*prohibit explicitly all practices of corporal punishment in all settings and strengthen its efforts to promote positive, non-violent and participatory forms of child-rearing and discipline*” (CRC/C/CHE/CO/2-4, par. 39).
- On a national level, over the years, several parliamentary initiatives and even a petition *For the interdiction of slaps*, addressed to the Parliament by a class of school children in Bern, were repealed. On the 8th of August 2015, the Federal Council rejected in one short paragraph a parliamentary initiative asking for the *Suppression of corporal punishment* (15.3639, Chantal Galladé). The reasoning of the Federal Council was that the current Civil Code «*corresponds to the actual opinion that the right of parents to inflict corporal punishment is incompatible with the interest of the child*». Furthermore, the Federal Council noted that physical punishment is not authorized under the Criminal Code and that, hypothetically, “*any criminal justice procedure aimed at a family threatens its equilibrium and can be harmful to a child*”. Finally, the Federal Council suggests that «*(...) a system of assistance for children and young people, combined with an awareness raising campaign aiming at changing the points of view and behavior of those concerned obtains far better results than those that would be reached with a clear inscription in the Law of an interdiction of all corporal punishment*”.

However, in the absence of the above-mentioned coordinated and sustained preventive measures seeking to reduce educational violence against children, the worrisome preliminary results of a study conducted by the University of Fribourg (expected to be published in 2018), are not surprising:

- Close to 20% of parents do not consider a slap on the face as a violent act.

¹ «*The child should not be exposed to physical punishment nor to any form of degrading treatment [Barn skall behandlas med aktning för sin person och egenart och får inte utsättas för kroppslig bestraffning eller annan kränkande behandling]*» (Föräldrabalk, SFS 1949:381, 6 kap. 1 §)

² «*The use of violence and inflicting physical and psychological suffering are illicit [Die Anwendung von Gewalt und die Zufügung körperlichen und seelischen Leidens sind unzulässig]*» (§ 146 a ABGB)

³ «*Children have a right to a non-violent education. Corporal punishment, psychological maltreatment and other degrading treatment are illicit [Kinder haben ein Recht auf gewaltfreie Erziehung. Körperliche Bestrafungen, seelische Misshandlungen und andere entwürdigende Massnahmen sind unzulässig]*» (§ 1631 Abs. 2 BGB)

- Close to 30% do not consider a strong slap on the behind to be violent, nor as a “thrashing” for 12% of the parents that were questioned.
- 20% of participants consider that no longer speaking to a child at all for two days is not a form of violence.

The University of Geneva’s Center for Children’s Rights Studies, together with its close academic partners, and within the scope of its contribution to the Swiss Center for Expertise in Human Rights, views the organization of this conference as a human rights imperative stemming from its findings of significant dissonance within the Swiss society: between the political positions, social attitudes, the international norms and the strong expectation that children should be better protected, as always taking into consideration their views and opinions on all matters that concern them.

Objectives

The objectives of this Conference are to:

- examine the Swiss legislation in light of the international norms as well as the legal framework of child protection in countries which have banned corporal punishment and other cruel and degrading practices,
- analyze the use of corporal punishment in the upbringing of children in Switzerland as well as its effects on their health and development,
- identify the psychosocial and economic remedies that effectively support parents and families to reduce the use of negative and violent educational practices,
- critically highlight, on the one hand, the social and professional positions that defend the use of corporal punishment as an educational tool and, on the other, the gradual evolution of attitudes that promote the adoption of so-called positive educational practices,
- elaborate recommendations in a final conference statement with the contribution of all the participants in order to support both a grassroots citizen campaign and a strong political initiative to adopt a law in the Swiss Civil Code clearly and explicitly banning all corporal punishment of children.

This high-level event represents a continuation of the research carried out by the organizing institutions on children’s rights and the protection of minors. It is conceived as an interdisciplinary dialogue that nourishes both the action in the field as well as the scientific research. The conference also seeks to generate a boost to support:

- the realization of the Objective 16.2 of the 2030 Agenda for Sustainable Development, *End abuse, exploitation, trafficking and all forms of violence against and torture of children,*
- all legislative measures so that, by the celebration of the 30th anniversary of the adoption of the UN Convention on the Rights of the Child, all children in Switzerland can hope to be effectively protected from all forms of educational violence.

Participants

This conference welcomes the participation of politicians at national, cantonal and municipal levels, as well as all concerned and interested professionals such as lawyers and jurists, family and youth magistrates from all relevant jurisdictions (penal, civil, protection courts, etc.), civil servants in child protection services, family mediators, psychologists, doctors, social workers, sociologists, teachers and education specialists, representatives from the civil society, the media; and of course students, especially graduate and doctoral students.

Les interventions se déroulent en Français (F), Deutsch (D) et English (E) et chaque langue bénéficie d’une traduction simultanée dans les deux autres.

Jeudi 3 mai 2018

08h30 Accueil des participants à l'Inselspital à Berne, remise des documents

09h00 Ouverture :

NN, Recteur ou Vice-recteur, Université de Genève

Prof. Philip D. Jaffé, Directeur du CIDE, Université de Genève, CSDH

1er quadrant: Le châtement corporel à l'encontre d'enfants à l'aune du cadre normatif national et international

09h15 *Session présidée par le Dr h.c. Jean Zermatten, Université de Genève, a. Président du Comité des droits de l'enfant à l'ONU*

Dr. h.c. Marta Santos Pais, Special Representative of the UN Secretary General on Violence against Children, New York, USA

The global situation of violence against children(E)

Judge Renate Winter, Chairperson, UN Committee on the Rights of the Child, Geneva

International obligations regarding the protection of children : Corporal punishment (D)

Ms. Elda Moreno, Cheffe du Service des droits de l'enfant et des valeurs du sport, Conseil de l'Europe, Strasbourg, France

Towards a corporal punishment-free Europe: When social and other norms divide Europe (E)

10h30 Pause

11h00 *Session présidée par M. Christian Nanchen, Chef du Service cantonal de la jeunesse, Valais*

Ms. Sara Johansson, Save the Children Sweden

The Swedish experience banning corporal punishment (E)

Me Estelle de Luze, Dr en droit, avocate

Les châtements corporels à l'aune du droit suisse (F)

11h40 **Table ronde**

M. Patrick Fassbind, Dr. iur., Leiter der Kindes- und Erwachsenenschutzbehörde (KESB), Basel

M. Beat Reichlin, Konferenz für Kindes und Erwachsenenschutz (KOKES)

Mme Andrea Hauri, Soziologin M.A., Sozialarbeiterin FH, Berner Fachhochschule

Discussion avec la salle

12h45 Repas

14h00 Une **note « dissonante »**

Prof. Emmanuel Jaffelin, philosophe, Sceaux, France

Éloge de la punition (F)

2ème quadrant: Recherches sur les châtements corporels et leurs effets

14h30 *Session présidée par la Prof. Zoé Moody, Haute école pédagogique du Valais*

Prof. Elizabeth Gershoff, University of Texas at Austin, USA

The state of research on corporal punishment. Evidence base findings. (E)

Discussion avec la salle

15h30 Pause

16h00 *Session présidée par Mme Paola Riva Gapany, Institut international des droits de l'enfant*

Prof. Kai Bussman, Martin-Luther-University Halle-Wittenberg, Allemagne

Recherche transnationale comparative dans 5 pays européens (D)

Prof. Nadine Messerli-Bürgy et **Dr Gisela Kilde**, Université de Fribourg

Bestrafungsverhalten von Eltern in der Schweiz – psychologische und rechtliche Aspekte: Befunde aus einer nationalen Studie im Auftrag von Kinderschutz Schweiz (D)

Dr Dirk Baier, Institut pour la prévention de la délinquance et de la criminalité, Zürcher Hochschule für Angewandte Wissenschaften

Elterliche Gewalt in der Schweiz – Befunde einer aktuellen repräsentativen Jugendbefragung (D)

17h30 Fin



Vendredi 4 mai 2018

3ème quadrant: Risques liés à l'interdiction du châtement corporel et travail social

09h00 *Session présidée par la Prof. Nicole Langenegger Roux, HES-SO Valais//Wallis, Directrice de la Haute école de travail social*

Mme Barbara Heuberger, Journalistin, "Keine Gewalt gegen Kinder" et **Dr Franz Ziegler**, Psychologe und Heilpädagoge

Körperstrafen sind demütigend und beschämend (D)

Prof. Dr. Stefan Schnurr, Fachhochschule Nordwestschweiz

Wirkungen eines Verbots der Körperstrafe und die Perspektive der Sozialen Arbeit (D)

Mme Wanda Suter, Juge de paix de l'Arrondissement de la Sarine, Fribourg

Comment sont abordés les châtements corporels au tribunal ? (F)

Dresse Muriel Salmona, psychiatre, France

Violence éducative ordinaire et troubles psychiatriques (F)

Discussion avec la salle

11h00 Pause

11h30 **Une note «dissonante»**

Dr David Eberhard, psychiatrist and author, Stockholm, Sweden

How Sweden's child-centered culture does not serve children's developmental needs (E)

12h15 Repas

4ème quadrant: Un nouveau souffle pour une interdiction explicite inscrite dans la loi

Session présidée par Mme Nicole Hitz Quenon, Université de Genève, CSDH

13h45 **Mme Jillian van Turnhout**, former Independent Senator, Ireland

How Ireland moved from 'we're not ready' to 'why didn't we do this years ago' (E)

Prof. Joan Durrant, University of Manitoba, Winnipeg, Canada

Pushing for a ban on corporal punishment: Common sense lessons learned versus political and judiciary resistance (E)

15h00 **Pause**

15h45 Next steps - Prise de position de la conférence

Modéré par Dr. Med Myriam Caranzano, Councillor ISPCAN, directrice ASPI

M. Sami Kanaan, Conseiller administratif de la Ville de Genève, Président,

Commission fédérale pour l'enfance et la jeunesse (CFEJ) Eidgenössische

Kommission für Kinder- und Jugendfragen (EKKJ)

Mme Chantal Galladé, Conseillère Nationale (ZH) (D)

Prof. Michelle Cottier, Université de Genève, CSDH

Prof. Philip D. Jaffé, Directeur du CIDE, Université de Genève, CSDH

16h30 **Prof. Luciana Vaccaro**, Rectrice, Haute école spécialisée de Suisse occidentale

16h40 Fin du colloque

Informations pratiques

Finance d'inscription : 1 jour: CHF 200.- (étudiant CHF 80.-)
2 jours : CHF 320.- (étudiant CHF 140.-)

Les repas de midi sont organisés sur place et sont inclus dans les frais d'inscription.

Inscriptions : En ligne : <http://unige.ch/cide/fr/actualites/>

Retour formulaire Par courrier : Centre interfacultaire en droits de l'enfant (CIDE)
Secrétariat
Université de Genève (Valais Campus)
Case Postale 4176 • CH - 1950 Sion 4
Par mail: colloque-cide-mai@unige.ch

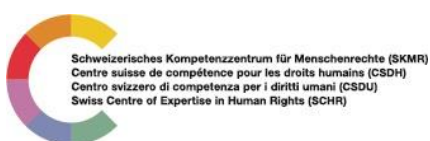
Lieux du Colloque (voir le Plan) : Inselspital, Berne, Operationstrakt Ost (OpO) F, Hörsaal 2
Chirurgie, Entrée 33 A/B ou 34,

Comité d'organisation

- Philip D. Jaffé, UNIGE, CIDE, CSDH
- Paola Riva Gapany, IDE
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- Christian Nanchen, Service cantonal de la jeunesse, Valais
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- Özlem Lakatos, UNIGE, CIDE

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Avec le soutien financier de la Confédération, en vertu de la loi sur l'encouragement de l'enfance et de la jeunesse (LEEJ)



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General of the Council of Europe,
Mr Thorbjørn Jagland

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Conférence Latine
De Promotion et Protection de la Jeunesse
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ASPI

Fondazione della Svizzera italiana
per l'Aiuto, il Sostegno
e la Protezione dell'Infanzia



National Coalition
NCBI
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Save the Children



Defence for Children International DCI
Défense des Enfants International DEI
Defensa de Niñas y Niños Internacional DNI



Kinderschutz Schweiz
Protection de l'enfance Suisse
Protezione dell'infanzia Svizzera

Plan de situation:

Operationstrakt Ost (Opo) F Hörsaal 2 Chirurgie

Adresse:

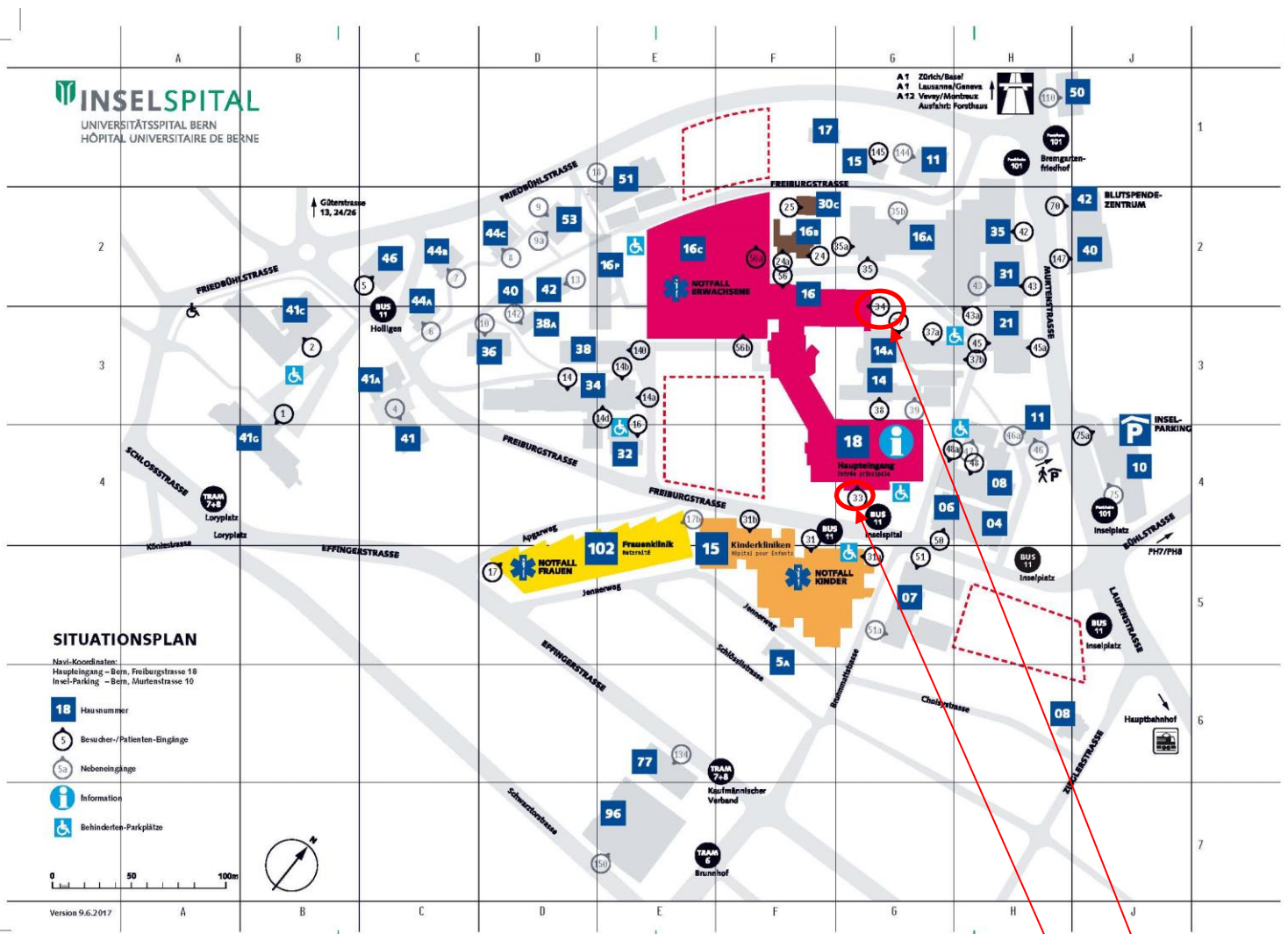
Operationstrakt Ost F, Neurozentrum, Entrées 33 A/B ou 34

Freiburgstrasse 16

Plan également disponible sur <https://www.insel.ch/fr/plan-de-situation-sorienter-sur-lenceinte/>

En transports publics : **bus 11** (Inselspital-Holligen) de la gare CFF ou de Hirschengraben.
Arrêt Inselspital.

En voiture : **Via l'autoroute A1** : sortie Forsthaus, puis suivre les panneaux « Inselspital » et « Insel-Parking » parking payant.



Entrées 33 et 34