INGRAHAM v. WRIGHT, 430 U.S. 651 (1977)

Argued November 2-3, 1976
Decided April 19, 1977

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents questions concerning the use of corporal punishment in public schools: First, whether the paddling of students as a means of maintaining school discipline constitutes cruel and unusual punishment in violation of the Eighth Amendment; and, second, to the extent that paddling is constitutionally permissible, whether the Due Process Clause of the Fourteenth Amendment requires prior notice and an opportunity to be heard.

I

Petitioners James Ingraham and Roosevelt Andrews filed the complaint in this case on January 7, 1971, in the United States District Court for the Southern District of Florida. At the time both were enrolled in the Charles R. Drew Junior High School in Dade County, Fla., Ingraham in the eighth grade and Andrews in the ninth. The complaint contained three counts, each alleging a separate cause of action for deprivation of constitutional rights, under 42 U.S.C. 1981-1988. Counts one and two were individual actions for damages by Ingraham and Andrews based on paddling incidents that allegedly occurred in October 1970 at Drew Junior High School. Count three was a class action for declaratory and injunctive relief filed on behalf of all students in the Dade County schools.

Petitioners' evidence may be summarized briefly. In the 1970-1971 school year many of the 237 schools in Dade County used corporal punishment as a means of maintaining discipline pursuant to Florida legislation and a local School Board regulation. The statute then in effect authorized limited corporal punishment by negative inference, proscribing punishment which was "degrading or unduly severe" or which was inflicted without prior consultation with the principal or the teacher in charge of the school. The regulation contained explicit directions and limitations. The authorized punishment consisted of paddling the recalcitrant student on the buttocks with a flat wooden paddle measuring less than two feet long, three to four inches wide, and about one-half inch thick. The normal punishment was limited to one to five "licks" or blows with the paddle and resulted in no apparent physical injury to the student. School authorities viewed corporal punishment as a less drastic means of discipline than suspension or expulsion. Contrary to the procedural requirements of the statute and regulation, teachers often paddled students on their own authority without first consulting the principal.

Petitioners focused on Drew Junior High School, the school in which both Ingraham and Andrews were enrolled in the fall of 1970. In an apparent reference to Drew, the District Court found that "[t]he instances of punishment which could be characterized as severe,

accepting the students' testimony as credible, took place in one junior high school." The evidence, consisting mainly of the testimony of 16 students, suggests that the regime at Drew was exceptionally harsh. The testimony of Ingraham and Andrews, in support of their individual claims for damages, is illustrative. Because he was slow to respond to his teacher's instructions, Ingraham was subjected to more than 20 licks with a paddle while being held over a table in the principal's office. The paddling was so severe that he suffered a hematoma requiring medical attention and keeping him out of school for several days. Andrews was paddled several times for minor infractions. On two occasions he was struck on his arms, once depriving him of the full use of his arm for a week.

II

In addressing the scope of the Eighth Amendment's prohibition on cruel and unusual punishment, this Court has found it useful to refer to "[t]raditional common-law concepts," and to the "attitude[s] which our society has traditionally taken." So, too, in defining the requirements of procedural due process under the Fifth and Fourteenth Amendments, the Court has been attuned to what "has always been the law of the land," and to "traditional ideas of fair procedure." We therefore begin by examining the way in which our traditions and our laws have responded to the use of corporal punishment in public schools.

The use of corporal punishment in this country as a means of disciplining schoolchildren dates back to the colonial period. It has survived the transformation of primary and secondary education from the colonials' reliance on optional private arrangements to our present system of compulsory education and dependence on public schools. Despite the general abandonment of corporal punishment as a means of punishing criminal offenders, the practice continues to play a role in the public education of schoolchildren in most parts of the country. Professional and public opinion is sharply divided on the practice, and has been for more than a century. Yet we can discern no trend toward its elimination.

At common law a single principle has governed the use of corporal punishment since before the American Revolution: Teachers may impose reasonable but not excessive force to discipline a child.

Although the early cases viewed the authority of the teacher as deriving from the parents, the concept of parental delegation has been replaced by the view - more consonant with compulsory education laws - that the State itself may impose such corporal punishment as is reasonably necessary "for the proper education of the child and for the maintenance of group discipline."

Of the 23 States that have addressed the problem through legislation, 21 have authorized the moderate use of corporal punishment in public schools. Of these States only a few have elaborated on the common-law test of reasonableness, typically providing for approval or notification of the child's parents, or for infliction of punishment only by the principal or in the presence of an adult witness. Only two States, Massachusetts and New

Jersey, have prohibited all corporal punishment in their public schools. Where the legislatures have not acted, the state courts have uniformly preserved the common-law rule permitting teachers to use reasonable force in disciplining children in their charge.

Against this background of historical and contemporary approval of reasonable corporal punishment, we turn to the constitutional questions before us.

III

The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Bail, fines, and punishment traditionally have been associated with the criminal process, and by subjecting the three to parallel limitations the text of the Amendment suggests an intention to limit the power of those entrusted with the criminal-law function of government. An examination of the history of the Amendment and the decisions of this Court construing the proscription against cruel and unusual punishment confirms that it was designed to protect those convicted of crimes. We adhere to this long-standing limitation and hold that the Eighth Amendment does not apply to the paddling of children as a means of maintaining discipline in public schools.

Petitioners acknowledge that the original design of the Cruel and Unusual Punishments Clause was to limit criminal punishments, but urge nonetheless that the prohibition should be extended to ban the paddling of schoolchildren. Observing that the Framers of the Eighth Amendment could not have envisioned our present system of public and compulsory education, with its opportunities for noncriminal punishments, petitioners contend that extension of the prohibition against cruel punishments is necessary lest we afford greater protection to criminals than to schoolchildren. It would be anomalous, they say, if schoolchildren could be beaten without constitutional redress, while hardened criminals suffering the same beatings at the hands of their jailers might have a valid claim under the Eighth Amendment. Whatever force this logic may have in other settings, we find it an inadequate basis for wrenching the Eighth Amendment from its historical context and extending it to traditional disciplinary practices in the public schools.

The prisoner and the schoolchild stand in wholly different circumstances, separated by the harsh facts of criminal conviction and incarceration. The prisoner's conviction entitles the State to classify him as a "criminal," and his incarceration deprives him of the freedom "to be with family and friends and to form the other enduring attachments of normal life." The schoolchild has little need for the protection of the Eighth Amendment. Though attendance may not always be voluntary, the public school remains an open institution. Except perhaps when very young, the child is not physically restrained from leaving school during school hours; and at the end of the school day, the child is invariably free to return home. Even while at school, the child brings with him the support of family and friends and is rarely apart from teachers and other pupils who may witness and protest any instances of mistreatment.

The openness of the public school and its supervision by the community afford significant safeguards against the kinds of abuses from which the Eighth Amendment protects the prisoner. In virtually every community where corporal punishment is permitted in the schools, these safeguards are reinforced by the legal constraints of the common law. Public school teachers and administrators are privileged at common law to inflict only such corporal punishment as is reasonably necessary for the proper education and discipline of the child; any punishment going beyond the privilege may result in both civil and criminal liability. As long as the schools are open to public scrutiny, there is no reason to believe that the common-law constraints will not effectively remedy and deter excesses such as those alleged in this case.

We conclude that when public school teachers or administrators impose disciplinary corporal punishment, the Eighth Amendment is inapplicable. The pertinent constitutional question is whether the imposition is consonant with the requirements of due process.

IV

The Fourteenth Amendment prohibits any state deprivation of life, liberty, or property without due process of law. Application of this prohibition requires the familiar two-stage analysis: We must first ask whether the asserted individual interest are encompassed within the Fourteenth Amendment's protection of "life, liberty or property"; if protected interests are implicated, we then must decide what procedures constitute "due process of law." Following that analysis here, we find that corporal punishment in public schools implicates a constitutionally protected liberty interest, but we hold that the traditional common-law remedies are fully adequate to afford due process.

A

It is fundamental that the state cannot hold and physically punish an individual except in accordance with due process of law.

This constitutionally protected liberty interest is at stake in this case. There is, of course, a de minimis level of imposition with which the Constitution is not concerned. But at least where school authorities, acting under color of state law, deliberately decide to punish a child for misconduct by restraining the child and inflicting appreciable physical pain, we hold that Fourteenth Amendment liberty interests are implicated.

B

"[T]he question remains what process is due." Were it not for the common-law privilege permitting teachers to inflict reasonable corporal punishment on children in their care, and the availability of the traditional remedies for abuse, the case for requiring advance procedural safeguards would be strong indeed. But here we deal with a punishment -

paddling - within that tradition, and the question is whether the common-law remedies are adequate to afford due process.

In any deliberate infliction of corporal punishment on a child who is restrained for that purpose, there is some risk that the intrusion on the child's liberty will be unjustified and therefore unlawful. In these circumstances the child has a strong interest in procedural safeguards that minimize the risk of wrongful punishment and provide for the resolution of disputed questions of justification.

We turn now to a consideration of the safeguards that are available under applicable Florida law.

Florida has continued to recognize, and indeed has strengthened by statute, the common-law right of a child not to be subjected to excessive corporal punishment in school. Under Florida law the teacher and principal of the school decide in the first instance whether corporal punishment is reasonably necessary under the circumstances in order to discipline a child who has misbehaved. But they must exercise prudence and restraint. For Florida has preserved the traditional judicial proceedings for determining whether the punishment was justified. If the punishment inflicted is later found to have been excessive - not reasonably believed at the time to be necessary for the child's discipline or training - the school authorities inflicting it may be held liable in damages to the child and, if malice is shown, they may be subject to criminal penalties.

Although students have testified in this case to specific instances of abuse, there is every reason to believe that such mistreatment is an aberration.

In those cases where severe punishment is contemplated, the available civil and criminal sanctions for abuse - considered in light of the openness of the school environment - afford significant protection against unjustified corporal punishment. Teachers and school authorities are unlikely to inflict corporal punishment unnecessarily or excessively when a possible consequence of doing so is the institution of civil or criminal proceedings against them.

But even if the need for advance procedural safeguards were clear, the question would remain whether the incremental benefit could justify the cost. Acceptance of petitioners' claims would work a transformation in the law governing corporal punishment in Florida and most other States. Given the impracticability of formulating a rule of procedural due process that varies with the severity of the particular imposition, the prior hearing petitioners seek would have to precede any paddling, however moderate or trivial.

Such a universal constitutional requirement would significantly burden the use of corporal punishment as a disciplinary measure. Hearings - even informal hearings - require time, personnel, and a diversion of attention from normal school pursuits. School authorities may well choose to abandon corporal punishment rather than incur the burdens of complying with the procedural requirements. Teachers, properly concerned with maintaining authority in the classroom, may well prefer to rely on other disciplinary

measures - which they may view as less effective - rather than confront the possible disruption that prior notice and a hearing may entail.

V

Petitioners cannot prevail on either of the theories before us in this case. The Eighth Amendment's prohibition against cruel and unusual punishment is inapplicable to school paddlings, and the Fourteenth Amendment's requirement of procedural due process is satisfied by Florida's preservation of common-law constraints and remedies. We therefore agree with the Court of Appeals that petitioners' evidence affords no basis for injunctive relief, and that petitioners cannot recover damages on the basis of any Eighth Amendment or procedural due process violation.

Affirmed.

MR. JUSTICE WHITE, with whom MR. JUSTICE BRENNAN, MR. JUSTICE MARSHALL, and MR. JUSTICE STEVENS join, dissenting.

Today the Court holds that corporal punishment in public schools, no matter how severe, can never be the subject of the protections afforded by the Eighth Amendment. It also holds that students in the public school systems are not constitutionally entitled to a hearing of any sort before beatings can be inflicted on them. Because I believe that these holdings are inconsistent with the prior decisions of this Court and are contrary to a reasoned analysis of the constitutional provisions involved, I respectfully dissent.