

Several spokesmen for the Christian Right present corporal punishment as grounded in religion. Several Christian sects refuse medical care on religious grounds. Both religion-based corporal punishment and medical neglect pose difficult challenges to those who work for the protection of children.

The seminal work of scholarship on the first topic is Philip Greven's *Spare the Child. The Religious Roots of Punishment and the Psychological Impact of Physical Abuse*. Greven quotes religious leaders from the seventeenth century to the present who advocate corporal punishment of children on a Biblical basis. He sees the practice as tied to Protestant apocalypticism, the expectation of the imminent end of the world.

His quotations from contemporary fundamentalist spokesmen indicate a perception that the willfulness of children is a primary evil, and that a good Christian has a moral obligation to do "battle" against it and "win." Parents must be obeyed no matter how irrational or sadistic their commands. Children should be hit until they "accept" their punishment. For some, acceptance means that the children cry "tears of a broken will" instead of "tears of anger"; for others, it means the children must stop crying. Children are then expected to express their love in words, hugs, and kisses for the parent who hits them.

*God, the Rod, and Your Child's Bod* by Larry Tomczak teaches that children should be hit with implements, such as "rods," rather than the hand, so that the children will regard the hand as "an instrument of love."

James Dobson's books recommending corporal punishment have sold millions of copies. His organization, Focus on the Family, has a multi-million dollar budget for its grassroots lobbying and many legislators are sympathetic to its positions.

### **The religious rationale increases harm to children**

Many fundamentalists want to mold their children to represent their religious values. They feel threatened by the mass media's emphasis on consumerism, instant gratification, and sexual freedom; the staggering rise in divorce and births outside of marriage; deteriorating economic status of the working class and unskilled; the necessity for mothers to work full-time to maintain a modest standard of living; and the consequent lack of time and energy to inculcate traditional moral values to children.

A threat mentality, combined with the belief that children are born sinners, may increase the severity of corporal punishment. Also, hitting children with implements rather than the hand means that a parent is less aware of the force being used.

Furthermore, a religious rationale greatly increases the emotional harm done by corporal punishment. The insistence that the physical pain comes because of love may confuse the child. The parent's love is conditioned upon stripping the child of will. Insistence that a supernatural being has ordered the child's pain compounds the assault on the child's sense of self. Religious extremists who claim that the child is possessed by the devil may drive the child to dissociation and other mental illnesses.

Finally, elevating physical assaults on children to the status of a religious practice or ritual may encourage children to provoke beatings. Beatings become a way to get status and love from their parents and God.

Some religious groups see disease as a moral problem. For Christian Scientists, disease is always evidence of man's alienation from God. For several Pentecostal sects, it is a test of faith. For both groups, the only appropriate remedy is ritual argument that sickness is illegitimate because God has redeemed His chosen from it.

### **Religious exemptions in state statutes**

The Christian Science church has enormous power with legislatures and does virtually all of the lobbying for religious exemptions from duties of care. The majority of states have religious exemptions from metabolic testing of newborns; 48 states have religious exemptions from immunizations; 41 states have religious exemptions from civil child abuse or neglect charges; 31 states have religious exemptions (or religious defenses) to one or more criminal charges.

States with a religious defense to the most serious crimes against children include Iowa and Ohio, which offer a religious defense to manslaughter; Delaware and West Virginia, which have religious defenses to murder of a child; Arkansas with a religious defense to capital murder; and Oregon with a religious defense to homicide by abuse.

### **CAPTA enables religious exemptions**

The federal government bears considerable responsibility for the exemptions in state codes. At the request of the Christian Science church, the federal government coerced states to enact religious exemptions to child neglect charges as an eligibility requirement for federal funding. The requirement was dropped in 1983, but in 1996 Congress passed the Child Abuse Prevention and Treatment Act (CAPTA), which does not include "a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian."

# Religious- Based Medical Neglect

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CAPTA requires states in the grant program to include failure to provide medical care in their definitions of child neglect, but it also allows these states to have religious exemptions from civil and criminal charges. Furthermore, both the administration and the chairmen of the authorizing House and Senate committees claimed, in support of the bill, that parents have a First Amendment right to withhold medical care from their children on religious grounds.

The Christian Science church is now using the prestige of such federal rhetoric at the state level. In 1997, for example, the church cited it in support of a Maryland bill providing a carte blanche religious exemption to all criminal and civil charges.

## **The First Amendment does not protect child maltreatment in the name of religious freedom**

The US Supreme Court and state courts have consistently ruled that First Amendment guarantees for religious freedom do not include a right to harm or neglect children. Nevertheless, many state legislatures have given parents the right to withhold needed medical care from children on religious grounds. Legislatures are also under continuing pressure to exempt church-run schools and child-care facilities from state education and licensing requirements, from prohibitions of corporal punishment, etc.

A California law offers a good balance between culture and child welfare: "Cultural and religious practices and beliefs which differ from general community standards shall not in themselves create a need for child welfare services unless the practices present a specific danger to the physical or emotional safety of the child." (Calif. Welfare and Institutions Code, Sec. 16509.) Such a law protects minorities from state intrusion motivated by prejudice or suspicion while maintaining an objective definition of abuse and neglect.

## **What child advocates should do**

Child advocates should oppose exemption laws that deprive a class of children of protections enjoyed by other children. Child protection workers should investigate and intervene when children are being harmed even if some argue that the parents' actions are traditional in their culture, religion, or ethnic group. Cultural sensitivity is important, but it should not extend to tolerance of medical neglect or physical abuse of children.

The US Department of Health and Human Services (HHS) is currently drafting regulations to implement CAPTA. HHS expects to publish them in the Federal Register this spring, which will open a period for public comment. Child advocacy organizations should call upon HHS to require the most protective laws possible in the face of CAPTA's unfortunate religious exemption.

## **What the federal government should do**

There is still much that HHS could do. For example, the authorizing congressional committee's report on CAPTA said its religious exemption for parents did not permit a religious exemption from a duty to report medical neglect or from investigation or court-ordered provision of medical care. HHS ought to require states in the grant program to remove religious exemptions from reporting codes.

HHS should also require the states to remove religious exemptions from civil dependency statutes and to repeal statutes that designate prayer as health care, remedial care, or medical care or allow courts to order it in lieu of medical care. Such laws may limit the state's ability to obtain needed medical care for a sick child. HHS has already analyzed congressional intent on this issue and concluded that Congress does not intend for religious means of healing disease to be considered medical care.

Finally, HHS should stop trying to justify the federal government's discrimination with First Amendment claims and should instead advise the states that parents do not have a First Amendment right to withhold medical care from children on religious grounds.

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## **LETTERS**

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- amplification on a point made in an editorial or article,
- disagreements with an author's stated position on a topic,
- disagreements with an author's interpretation of the relevant literature,
- suggestions for new features, or comments on existing ones,
- perspectives on issues in the field that you think are misinterpreted or neglected.

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