

The Practice of Discipline: The Child's Right to a Culture vs. The Child's Right to Safety

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This paper attempts to raise a rather difficult question of child protection that frequently arises in service delivery, which is, how does one intervene in instances of the (sometimes fairly severe) physical and corporal punishment of children where these practices seem to have some level of acceptance within the child's culture? Professionals often find themselves in very real dilemmas which often seem to involve making a choice between the child's right to safety and the belief that the professional should not intervene in accepted cultural practices, based on the child's right to a culture, both of which are children's rights as secured in the United Nations Convention on the Rights of the Child (1989). (Article 8 states the child's right to an identity, including a name, nationality, and family ties; Article 30 reinforces this right for children from minority cultures; Article 19 protects children from 'all forms of physical or mental violence, injury or abuse'.) This same dilemma does not seem to arise in instances of child sexual abuse, as it has been well-documented that few cultures practice adult-child sexual contact, and where this does occur, it is usually in the context of time-limited initiation rituals or where the age difference between the adult and the young person is not excessive (Davenport, 1992; Fontes, 2005; Korbin, 1981; 1987; 1991; NSW Child Protection Council, 1993; Scheper-Hughes, 1998, pp. 299-301; see also Marks, 2008, for a discussion of this issue in relation to child sexual abuse allegations which emerged on Pitcairn Island).

Some cultures, such as the traditional Hawaiian and the Ancient Egyptian, seem to have tolerated sexual contact between siblings, but not across generations. In addition, most countries have legislated against sexual contacts between adults and children and education campaigns have often been conducted to remind professionals of their responsibilities to report instances of adult-child sexual contact which come to their attention. (I am aware that I am setting to one side a type of sexual abuse which does regularly occur in some cultures, female circumcision, or female genital mutilation as the practice is often called in Australia, which I do personally regard as abusive to the girls on whom it is performed, but which I feel unqualified to comment on further, for further information, see Ganguly, 1997).

This situation is very different where the physical punishment of children is concerned. The topic has been generally neglected over the past several decades as new and more exotic forms of child abuse (such as Munchausen's syndrome by proxy or satanic abuse) have come to public attention. The physical abuse of children was the first to be discovered and discussed in the child abuse literature in the early 1960s, and has been increasingly neglected in the boutique world of child abuse research. In addition, it has not always been easy to decide what constitutes the physical abuse of children. Corporal punishment, or spanking (as it is more commonly called), is widely supported throughout the world (e.g. Duke, 1995; Ritchie & Ritchie, 1997), and to this writer's knowledge only a minority of countries worldwide have legislated against any form of spanking (Durrant & Olsen, 1997; c/f Cashmore & de Haas, 1995; Office of the Community Advocate, 1994). At the date of this writing, about twenty countries, located mostly in Europe (e.g. Austria, Croatia, Cyprus, Greece, Italy, Norway, Sweden and others) and South America (Chile, Costa Rica, Uruguay, Venezuela), have legislated against the corporal punishment of children in all contexts (End All Corporal Punishment of Children, 2008).

More countries have allowed parents to spank their children, but have drawn the line against school or public service personnel (e.g. youth workers, detention centre employees, foster parents) doing so (this is the case in most, but not all, Australian states and territories, see End All Corporal Punishment of Children, 2008). Equally, most countries acknowledge that although parents may hit their children, excessive force does constitute child abuse, and is grounds for state intervention. (The New South Wales legislation is quite specific about what forms of spanking are allowed and disallowed - so is the new legislation in Great Britain; see Brisbane Courier-Mail, 8 September, 2001, p. 19). In Australia, professionals are expected to assist in child protection by reporting to public authorities cases where they believe children have been subjected to excessive force (for example, see Frey, 1999).

However, it appears that, when dealing with children from certain culturally and linguistically diverse background (CALDB) families where physical discipline appears to receive a cultural sanction, in an effort to affirm multiculturalism, even child protection professionals are applying different standards in their consideration of whether to intervene when they see force being used against a child than they would apply when dealing with children from the dominant culture (see also Maitra, 2005). These cases seem to be indicative of a general confusion in societies which espouse multi-culturalism, as can be seen in the following examples:

- This issue came up some years ago in some training Diversity in Child Care, Inc. was doing in a suburb outside of the city of Brisbane. Diversity in Child Care, Inc. provided resources and training to child care professionals tasked with increasing the access of child care to CALDB families. Although the training was actually about helping

children who had been exposed to trauma as a result of fleeing wars and persecution overseas, it quickly became apparent that staff were more concerned about instances of physical punishment they had witnessed amongst families from non-English speaking backgrounds. One pre-school teacher mentioned having witnessed one such parent hit her child across the head. The teacher stated that, although this incident had concerned her, she had made no attempt to intervene. I questioned this teacher carefully about whether she would have intervened had the family background been Anglo-Australian, and why. She told me she would have intervened with an Anglo-Australian family because a parent can cause serious harm to a child by hitting the child across the head. I asked her why she assumed a CALDB parent would not want to know that this practice could endanger her child, and she replied that she felt hitting the child across the head was accepted in the child's culture, and she felt that by challenging this action, she would be undermining the child's regard for their culture and imposing the foreign Anglo-Australian culture on the child instead. It seemed to me as though she genuinely believed that the physical effects of being struck, and therefore physical risk (as opposed to emotional risk) actually varied by culture.

- I encountered a similar argument quite a number of years ago at a presentation on child abuse given at a conference for school counsellors from the international schools of the Asia-Pacific region held in Bangkok, Thailand. On this occasion, it became very apparent that most of the school counsellors were extremely reluctant to intervene in almost any instance of child abuse. This was partially due to uncertainty about legal requirements, and the availability of resources in a wide variety of countries, and probably partially due to the social prominence of many of the parents whose children were in international schools. However, the major reason for this reluctance seemed to be the difficulty the counsellors had in determining whether apparently abusive practices were culturally accepted (or at least culturally commonplace). One counsellor cited the case of a Japanese high school student who had come to school with a black eye, and explained that her father had hit her in the eye the previous night when he threw a telephone at her, but quickly added, "Its okay - I deserved it." He said he had not intervened because he felt this practice was accepted by both the father and his daughter (and seems thereby to be indirectly acknowledging that she had somehow deserved to have a telephone thrown at her). Although this incident happened many years ago, the attitude the counsellor displayed is, in some cases, still quite contemporary.
- Anthropologist Helen Morton makes a similar observation of the child discipline practices she first observed as a young married woman on

the island of Tonga (the writer apologises for the length of this excerpt but it is necessary to give a full flavour to the Ms. Morton's dilemma):

One day not long after my marriage an incident occurred that, in retrospect, was the beginning of my fascination with Tongan childhood. It was Sunday, a day of churchgoing and rest in Tonga. The girls had worn new white dresses to church and against their mother's (the author's sister-in-law - RF) orders had kept them on after church while they played in the now muddy yard. To punish the girls for their disobedience their mother lined them up from oldest to youngest and beat each in turn with a piece of wood, on their legs and hands. By the time it was the youngest girl's turn she was sobbing with fear, but her mother, sitting cross-legged on a mat, resolutely administered her punishment.

I watched the scene in horrified amazement...this incident jolted me into a sense of "culture shock." I was shocked that the children were beaten with a piece of wood, I was amazed that they were expected to stand in line waiting to be beaten, and I was even more amazed that they complied. Their mother's calmness also confounded me: she just sat there and implacably hit her children, one at a time.

My sense of shock was compounded when, very soon afterward, I saw (this) mother cuddling the youngest daughter. I turned to my husband (who was Tongan - RF) in bewilderment and asked why, if the mother had been angry enough to beat her children only minutes before, she was now showing affection. I cannot remember his exact words after all these years, but they were something like "She is showing that she loves them. They have to know that she only punishes them because she loves them."....

As it turned out, my sister-in-law was a gentle woman who punished her children only infrequently, and her punishments were mild relative to the many incidents I later witnessed. Yet it was that first incident that affected me most profoundly, because it forced me to confront the reality of cultural difference. (Morton, 1996, pp. 1-2)

- Similar confrontations by anthropologists with apparently severe physical child rearing practices, (as well as other practices which would generally be deemed destructive to children by child development professionals), and the ethical dilemmas these created for researchers are also described in chapters by Weiss (on the treatment of children with disabilities in Israel), Bourgois (on Puerto Rican families in New York) and Goldstein (discipline practices in a specific family in a favela in Brazil) collected by Scheper - Hughes and Sargent (1998).

- Finally, I think it important to note that these dilemmas also arise with Anglo subcultures as well, where the use of corporal punishment is still widely approved. I can recall as a child protection officer in a small

Australian country town being called by a woman who had just witnessed her neighbour hit his primary school aged child with a rubber pipe. Upon arriving at this family's home, I was confronted by the child who had been hit snugly asleep on the father's lap. The father explained to me that the family were Christian, and believed that discipline had to be administered physically to their children, who after being punished, were required to pray and ask God's forgiveness (and their parents' forgiveness) for what they had done. He explained further that their faith forbid them to use their hands in spanking their children because "the hand gives love" and they did not want their children to associate their parents' hands with pain. So the parents had used a stiff rubber pipe instead. Further, it was clear that the parents saw me, in my capacity as a child protection worker as an agent of an Unchristian government which was attempting to stop parents from raising their children according to "God's plan," and were therefore unprepared to listen to anything I had to say about their methods of discipline. It was also clear that all the children were firmly bonded with their parents, and to remove them would disrupt this attachment. It was equally clear that the parents would not change their practice of hitting their children with a pipe. In this situation, do I respect the children's right to be raised in an alternative culture? (Greven (1991) analyses this dilemma, especially regarding American Christian sub-cultures in great detail, although not from a "neutral" perspective - I will leave it to the reader to guess which of two unpleasant options I took at the time, an option with which I have never felt comfortable).

It is significant to note that this issue does not arise only in dealing with issues of physical discipline. It also arises where cultural practices seem to confront other human rights treasured in Western political thinking, which through a variety of international conventions, now has an international influence (see Schepers-Hughes & Sargent, 1998b, pp.7-10; a critique of human rights can be found in Glendon, 1991). These issues surface when considering the treatment of women around the world generally and the physical discipline of married women (what we would rightly, I believe, term domestic violence) specifically. It also arises in the treatment of people with disabilities (see for example Weiss, 1998). In the STAR program's manual *Children Crossing Cultures* (1999), Hurriyet Babacan and I discussed this dilemma in regard to instances where culture seems to conflict with equality of rights and opportunities for girls and boys. That same year, Raquel Aldunate and I raised the issue in regard to domestic violence at a conference on this issue in Brisbane (see Bamborough, 1999). Drawing on some of the considerations first suggested in *Children Crossing Cultures*, and later raised at the conference, and developed further over the intervening years, I would like to explore here some issues which may clarify, if not satisfactorily resolve, the issue over intervention in instances of physical child discipline.

To begin with, I would like to comment on the inadequacy of the approach which asserts that whatever the practice has been in the parent's home country, it must now be modified because that family is now living in a different place and is subject to the laws of the new country. This was the approach we were encouraged to take in late 1980s when I trained as a child protection officer with the New South Wales Department of Youth and Community Services, and recent discussions (2007) between refugee parents from the Horn of Africa and child protection authorities facilitated by the staff of Catholic Education, to which I acted at the time as a consultant, indicates that there is still a strong temptation to take this approach. At one level, of course, it is true that families living in Australia are subject to Australian laws, families living in Canada subject to Canadian laws, families living in India subject to Indian law and so on. However, as mentioned above, these laws are rarely clear as to what constitutes physical abuse, and how physical abuse is to be separated from ordinary discipline. If I spank a child on the bottom, I have not abused that child, yet if I spank a child hard enough to leave bruises, I probably have abused that child.

Equally, families who have not come from Western countries may be unfamiliar with this level of government intervention into their daily lives, particularly intervention which is purportedly in their children's 'best interests' (see also Connolly, Crichton-Hill, & Ward, 2006; and Fontes, 2005, for further discussion on the general context and life experiences of refugee and CALDB families). They may in fact see the government as prohibiting the disciplining of their children and thus contributing to the child's disobedience and immorality, and not really understand why the government would do this. (This is a common concern amongst immigrant families in Australia, who often regard Anglo-Australian children as having lower standards of morality and too much freedom). This places any concerned parent in a difficult situation where they must choose between obeying the law, and satisfying their moral and religious standards, the imposition of which they believe to be in the best interests of their children. This issue was highlighted when we were interviewing a group of women from the Horn of Africa in 2001, in a totally different context, for a project to examine how a variety of cultures respond to children with disabilities. In the course of the conversation it emerged that the women had been informed that spanking was illegal in Queensland (this was not true then, and to the best of my knowledge, is still not true). The women had clearly been told that in Australia, naughty children were sent to their rooms for "time out." Several of the women admitted this alternative left them feeling very uncomfortable, and that they continued to spank their children, only indoors where authorities could not see them. They said they found the alternative which had been suggested to them, "time-out", a much more appalling form of child abuse. They felt a brief intervention via a swat on the child's bottom was far superior to sending a child away from the family circle into isolation, even for a brief period. To them, to administer a brief hit seemed a far more appropriate intervention than the separation of the child from the family, which seemed to magnify the infraction. I note that women from the Horn of Africa interviewed on video by the VICSIG (in the Australian state of

Victoria) made very similar statements about discipline. (I do not mention this because I personally approve of spanking, I do not, but because it shows how the very attempt to provide parents with alternatives first, distorts the actual practices of Australian parents, and second, demonstrates how little consideration was given to how other cultures might hear the alternatives - and one could argue here, taking these women's concerns seriously, how potentially abusive some of the alternatives really are.)

On further reflection, it seems to me that both the "culturally tolerant" attitude and the "you must obey the local laws" attitude belie subtle forms of racism, and indeed, raise vital questions about the nature of a multicultural society. It seems to me both attitudes betray an unwillingness to engage members of other cultures in discussion, even when the practice being discussed (physical discipline of children) is hardly a practice foreign to the dominant Anglo-Australian culture, and has been subject to intense debate within this dominant culture. There seems to be a kind of Orientalism (Said, 1978) occurring here, where a common practice, developed for a common end (the development of one's children) can no longer be commonly discussed due to a barrier called "culture." The teacher mentioned in the example above would not have hesitated to share her concerns with a parent from her own culture, yet believed that these concerns could not be attended to by a parent from a different culture because somehow this thing called "culture" would convince this parent that concerns about the safety of the discipline practice were irrelevant. (It may be overstating the case a bit, but it almost seemed as though this teacher were assuming that "culture" would prevent a parent from caring about their child). The same applies to the case mentioned above of the child protection officer (me). I also assumed too quickly that the family would not be willing to discuss their practice with me due to this inhibition called "culture." Yet, there were a number of questions I could have asked had I not begun from an assumption that this family would not be willing to talk to me; technical questions such as, whether they were aware that using an implement to hit a diminishes the amount of control one has over the impact of the strike, and may result in non-intentional injury; or more broad ranging questions such as how the children would not notice who was holding the implement, and still associate punishment with that person's hands (as the family had asserted the "hands give love").

I note, too, that this type of thinking uses a very simple and non-complex definition of "culture," quite inconsistent with its use in modern scholarship. It assumes a single, unified culture which expresses itself unproblematically in parental practices. It neglects the probability that within any culture there are many sub-cultures and that even within a single family, different members of the family may participate in quite different cultures, such as male culture, female culture, children's culture, youth culture and so on (see Maitra, 2005). In Anglo countries these cultures are at least tacitly acknowledged by advertising designed to target specific sub-cultures, such as the "youth market". In addition, it is readily recognised that sociological variables such as race, class, location

(e.g. rural vs. urban), religion, level of education, and gender are all potentially capable of creating sub-cultures (for further details see Fontes, 2005). There is a very real sense in which a father's culture is not a mother's and a parent's culture may not be a child's. Unfortunately, whilst most Anglo professionals would readily acknowledge this about Anglo-Australian culture, they often do not extend to other "cultures" the honour of being complex. Instead, what manifests most easily to an observer outside the culture, which is usually the dominant culture, is taken to represent the entirety of the culture (the reader is again referred to the illustration of this conflict between dominant and sub-cultural understandings of child abuse in the case of Pitcairn Island, Marks, 2008). This would be unthinkable in Anglo-Australian practice (unthinkable but not necessarily "undoable"), yet this sensitivity to other non-dominant discourses is often poorly applied when considering other "cultures."

Change in the treatment of children in the Anglo-Australian culture occurred, and continues to occur, because someone, or a group of someones, decided that ways of treating children, whether it be through severe physical punishment or sexual abuse, or child labour, was counter to the best interests of children. An argument could have been made, and still can be made in several of these cases, that these practices were accepted in Anglo-Australian cultures, and therefore were not able to be discussed, let alone challenged and changed. To suggest that no culture is perfectly sensitive to children's needs is surely not an example of Western cultural imperialism - it is incumbent on all of the world's citizens to think about what is best for our children, and to borrow practices from each other that seem more loving and respectful than our own. In my own life with children, I have been strongly influenced by Indigenous American sanctions against the physical punishment of children (see for example Ehle, 1988; Schaefer, 1995). Further, I am deeply grateful that the Indigenous writers who have touched my thinking on this issue did not decide not to engage with me on the basis that spanking is allowed in most Anglo societies, so must therefore be a part of my culture. I have also seriously curtailed my advocacy of "time out" after discussions with African and Indigenous Australian parents, and try to use it as infrequently as possible as a discipline practice. At Diversity in Child Care Inc., we developed a set of questions, in an Australian context, which we thought might initiate cross-cultural discussions about child discipline measures which might lead to conversations about discipline rather than sophisticated forms of intimidation or persuasion:

- Would this practice seem severe enough to be reported to a child protection agency if it occurred in an Anglo-Australian family?
- Is there some reason to believe that this practice distresses, endangers, or has a negative impact on the child?
- Does it appear that the practice is being carried out with the intention of assisting the child?
- How does the parent explain the practice? What does the parent hope to achieve by this practice?

- Is this in fact a cultural practice, or is it more likely to be a practice idiosyncratic to this family, or to this parent? Would it bother members of the child's own culture? (Use of a cultural broker to discuss this set of questions might be very helpful).
- Even if the practice is widely carried out in the child's culture, is it none-the-less regarded as controversial (as "spanking" is in the Anglo-Australian culture)?
- Are there other practices which might achieve the same effects/goals without endangering the child in the same way?
- How open is the parent to considering these alternatives, particularly if they believe that doing so might assist their child?

The Anglo-Australian culture has been engaged in discussions about the intent and practice of the physical discipline of children for at least a century. Historical trends indicate that with each passing year, fewer and fewer parents find that physically disciplining their children suits their own goals and ideals to promote the development of their children into emotionally mature adults. However, many parents in the Anglo-Australian continue to use physical discipline, at least in some circumstances. That the trend is increasingly away from physical discipline, in the absence of prohibitive legislation, seems almost entirely due to conversations initiated about the broad purposes of parenting. Parents in CALDB communities have been all too frequently excluded from these conversations due to "cultural" differences yet they are expected to abide the outcomes of these conversations, even when the apparent outcome is far from unanimous even within the dominant culture. It is fairly easy to conclude that this exclusion is the real source of racism in child protection. Anthropologist Nancy Scheper-Hughes concluded (1998b, p. 9), "traditional cultural and moral relativism (in anthropology) may no longer be adequate for the complex transnational world in which we live. If anthropology is worth anything at all, it must be grounded in a new ethics beyond the cultural relativisms of the past." Such an ethic can only arise from cross-cultural discussions about the purpose of parenting children, and these discussion cannot occur unless Anglo-Australian open ourselves to conversations with members of other cultures, and be prepared to have our own oppressive child-rearing practices challenged thereby.

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