

Spare the Rod – Save the Child

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INTRODUCTION

Dr. King reminded us that injustice anywhere is a threat to justice everywhere. In the United States, we have banned corporal punishment in the military, in prisons, and in mental institutions. Yet today, in many states including Ohio, corporal punishment is still an accepted form of discipline in our schools. We still beat our children, some of our most vulnerable citizens. Corporal punishment of our children, which is defined here as the intentional infliction of pain on the human body as a penalty for an offense, is an embedded part of our culture, and occurs both in our homes and in our schools.

For our purposes here, this paper will investigate state action (public education) which continues this practice. No attempt will be made to explore the efficacy or appropriateness of corporal punishment by a parent in the home setting. Much of the material presented here, however, may apply to either setting.

“The justification for inflicting pain on children lies deeply embedded in religion and tradition”.¹ This paper will investigate Old Testament sources of the practice and will inquire as to whether the Gospels provide a similar or contrary view. While New Testament references to the corporal punishment of children are rare and isolated, we will explore the view of Jesus Christ toward children in an attempt to discern his view.

Having set out the biblical tradition, an attempt will be made to investigate contemporary societal influences that perpetuate the practice including a landmark United States Supreme Court case. Further inquiry will be made as to whether developing and emerging factors including a protection of the liberty interests of children may promote an abandonment of the practice in the near future. While much of the justification for the practice of corporal punishment lies within the realm of religious matters, the perpetuation of the practice is a matter of public policy and, accordingly, is the proper concern of legislatures and courts.

¹ Irwin A. Hyman, *The Case Against Spanking, How to Discipline Your Child Without Hitting* (San Francisco: Jossey-Bass Publishers, 1997), 204.

THE TRADITIONAL VIEW

Corporal punishment in our schools is typically administered by a schoolteacher or administrator utilizing a wooden paddle to strike a child. It is a form of corrective discipline and is based upon a belief and assumption that punishment is the best deterrent for inappropriate behavior. Students may be physically punished for a wide range of misbehavior, including minor infractions such as chewing gum, being late, sleeping in class, talking back to a teacher, violating a dress code, or going to the bathroom without permission. The paddle has replaced the “rod” of biblical times yet, not surprisingly, the support for this practice is grounded squarely in the Bible. Ironically, the phrase “spare the rod, spoil the child” originated from another source. That notwithstanding, there is ample support for the practice of beating our children in the Bible.

Through successive generations, the most influential and enduring source of support for physical punishment as discipline has been the Bible. The most frequently cited scriptural references occur in the Book of Proverbs. They have become familiar to us as an integral part of Christian and secular culture.

Those who spare the rod, hate their children,
But those who love them are diligent to discipline
them.²

Do not withhold discipline from your children;
If you beat them with a rod, they will not die.
If you beat them with the rod,
You will save their lives from Sheol.³

Folly is bound up in the heart of a boy,
But the rod of discipline drives it far away.⁴

² Proverbs, 13.24 NRSV.

³ Proverbs, 23.13-14 NRSV.

⁴ Proverbs, 22.15 NRSV.

These verses are in some instances attributed to Solomon and their tone is not surprising when viewed in the context of the nature of God which prevailed in the Old Testament. These verses are consistent with Jehovah's punishments of his people. A God who demanded the human sacrifice by Abraham of his son surely would not hesitate to endorse physical punishment for disobedience. In this view, fear of God is a necessary compliment to God's love if children are to be saved. In this sense, the relationship between a parent and child imitates that of the relationship between God and his children. Many advocates of corporal punishment express this sentiment. "He who fears God most will love Him best. If God, the perfect Father, so disciplines His children as to inspire fear, then we should follow the same pattern in dealing with our children."⁵

Consistent with this view is a belief that a person's "self-will is evil and sinful".⁶ Accordingly, in order to be saved from the consequences of sin and misdeeds, children must be totally subordinated to and dominated by their parents. "No choice is offered children except to surrender their wills to the wills and superior force of their parents."⁷ This is a classic statement of the Myth of Redemptive Violence expounded upon by Walter Wink, a topic which will be discussed below.

THE JESUS VIEW

The Latin roots of the word discipline connote learning and teaching. Neither of these two terms implies coercion. In fact, the word disciple means one who willingly imitates his/her teacher or mentor. Nowhere in the New Testament does Jesus Christ suggest or support the use of violence against children. A Christian parent may tell a child "Jesus teaches that you must be punished by the rod when you misbehave." That parent, if called upon to do so, would be unable to support this supposition with any text in the Gospels. When Jesus did touch upon this issue, his

⁵ Larry Christenson, *The Christian Family*, (Minneapolis: Bethany House Publishers, 1970), 101-102.

⁶ Philip Greven, Spare the Child, *The Religious Roots of Punishment and the Psychological Impact of Physical Abuse* (New York: Alfred A. Knopf, 1991), 65.

⁷ Ibid., 69.

teaching appears to express a much different attitude and sentiment toward children than the use of physical punishment.

If any of you put a stumbling block before one of these
little ones who believe in me,
It would be better for you if a great millstone were
fastened around your neck and you were drowned in
the depth of the sea.⁸

It is difficult to conceive of Jesus hitting a child on any occasion or for any reason. The practice simply appears to be inconsistent with what he taught. Paul echoes these sentiments by expressing his compassion for children in his letter to the Ephesians.

And, fathers, do not provoke your children to anger,
But bring them up in the discipline and instruction of
the Lord.⁹

Here Paul urged parental restraint and a loving response. His call was for a nurturing and caring response to the misdeeds of young children. If Jesus did reject the practice of corporal punishment, so readily endorsed in the Old Testament, in favor of a compassionate response; is this rejection representative of some core values within his teaching?

Above we discussed briefly the nature of God in the context of Old Testament teachings; a God to be feared and obeyed. By the time of Jesus and within his teaching, this view had evolved to embrace a God who loved his children; a God whose grace forgives his children for their misdeeds. "One of the most profound and consequential transformations wrought by Christianity has been the radical change in the nature of God from Jehovah to the Father."¹⁰ Jesus presented us with a new way to experience God. "Jehovah, the keeper of covenants and judge of his people, was changed into the Father in heaven who forgives sins freely, welcomes the

⁸ Mt 18:6 NRSV.

⁹ Eph 6.4 NRSV.

¹⁰ Greven, 49.

prodigal, makes his sun to shine on the just and unjust, and asks for nothing but love, trust, and cooperative obedience.”¹¹

In the Old Testament paradigm, “unquestioning obedience is the highest virtue, and order the highest religious value.”¹² The resulting order which must be imposed by those in superior positions results in domination systems, according to Wink, which are characterized by hierarchical power structures. Violence is used to maintain the structures and relationships. This is referred to, by Wink, as the Myth of Redemptive Violence. It has a significant foundation in history and myth and it is much in evidence today.¹³ It is just this relationship which characterizes a relationship between a teacher and student where the teacher/administrator uses a violent act using a weapon in order to maintain and restore “order over chaos” in the classroom. It is hard to imagine a more cogent example of a superior/subordinate relationship wherein one maintains a superior position through the application of violent force.

These are core constituent values of our ancient religious tradition. And it is through the use of corporal punishment, a practice which continues this tradition, that our children learn to perpetuate this myth and associated practices. Corporal punishment, as a means of upholding social norms, provides an early example for children of violence “as the ultimate solution to human conflicts.”¹⁴ Jesus rejected this tradition.

The alternative view, for Jesus, was a domination-free order in which domination would yield to a “kingdom” of compassion and communion. His “kingdom” was characterized by the equal, domination-free, treatment of women, children, outcasts and those who live on the margins of society.¹⁵ In this view, every non-violent act is a “revelation of God’s new order breaking into the world” through Jesus Christ.¹⁶

¹¹ Walter Rauschenbusch, *A Theology for the Social Gospel* (Louisville, Kentucky: Westminster John Knox Press, 1997), 154.

¹² Walter Wink, *The Powers That Be, Theology for a New Millennium* (New York: Galilee Doubleday, 1998) 47.

¹³ *Ibid.*, 42.

¹⁴ *Ibid.*, 54.

¹⁵ *Ibid.*, 64.

¹⁶ *Ibid.*, 135.

Violent acts, such as corporal punishment, reflect another view. Corporal punishment brings new meaning to the phrase “turn the other cheek.” (Albeit, this is probably not what Jesus had in mind when he made this suggestion).

A social order embracing non-violent responses does not just acknowledge nonviolence as a means to the kingdom, it respects that nonviolence is an essential characteristic of such a just society. For Borg, this view of Jesus constitutes a politics of compassion.¹⁷ This represents a departure from a Jewish tradition which emphasized holiness, not compassion. In this, Jesus offered an alternative social order characterized by compassion within which he frequently criticized existing sociopolitical notions of domination. Presumably, this includes violent acts (e.g. corporal punishment) that have more to do with tradition than with any redemptive quality the act may have. Jesus substituted, in his ministry, a need to be “pure and holy” with a need to be compassionate. While physical punishment as discipline is not specifically referenced in this context, Jesus did definitively provide a different “lens” through which to view the Jewish tradition which, as we have seen, included an endorsement of corporal punishment. Borg writes further “it is not only in the church that the politics of purity remains alive, but also in our culture as a whole. One could make a very good case that we have a secularized version of the politics of purity.”¹⁸ Something akin to this has happened with the Old Testament tradition of corporal punishment. It has been secularized in just such a fashion and has become an integral part of our culture.

A SECULAR VIEW

Nussbaum, in *Liberty of Conscience*, suggests that even if we “keep religious orthodoxy out of our common political life . . . we can, and must, base that common life on ethical principles that, for many of us, also have a religious meaning and a religious justification.”¹⁹ The implementation and continuation of the practice of

¹⁷ Marcus J. Borg, *Meeting Jesus Again for the First Time, The Historical Jesus & the Heart of Contemporary Faith* (San Francisco: Harper Collins, 1994) 49.

¹⁸ *Ibid.*, 59.

¹⁹ Martha C. Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008), 65.

corporal punishment in our schools is a matter of public policy. Where it exists, it exists as a matter of legislative action (or inaction) presumably representing the interests of legislator's constituencies. These interests may have something to do with a religious tradition and beliefs. Yet, our "hope is that public institutions can be founded on principles that all can share, no matter what their religion."²⁰ Even in legislative matters, we should be on guard to avoid the imposition of what Roger Williams referred to as "soule rape", a severe violation of conscience.

In the only United States Supreme Court case squarely addressing the issue of school corporal punishment, the Supreme Court reviewed a variety of constitutional issues related to corporal punishment and upheld the practice by a slim majority.²¹ As a result, hundreds of thousands of students are paddled each year in our public schools. The focus here now turns to whether this violates a child's liberty under the United States Constitution.

In her discussion of possible constitutional challenges to legislative action which impacts the rights and liberties of gays and, in particular, denies them the right to marry, Nussbaum suggests that neither a free exercise of religion challenge or establishment clause challenge based on the First Amendment would be successful in this regard. A free exercise of religion claim would depend upon a showing that a particular denomination "requires same-sex marriage or holds it to be a necessary part of good religious life."²² This view is unsupportable. Secondly and similarly, a case based upon an assertion that such laws denying these rights and liberties promotes the establishment of a particular religion would be weak. This argument also, Nussbaum suggests, would fail, because there is significant diversity within the Judaeo-Christian community on this matter and "these limitations on marriage are not particularly characteristic of Judaism and Christianity."²³

²⁰ Ibid., 23.

²¹ *Ingraham v. Wright*, 430 U.S. 651.

²² Nussbaum, 338.

²³ Nussbaum, 339.

As such, gay marriage is not a religion clause issue. This may also be said of judicial challenges to corporal punishment. Like legislative and administrative support for bans on gay marriage, support for corporal punishment, where it exists, depends at least in part upon a religious tradition which has been incorporated within our general culture. As above, it would be difficult to identify a particular denomination which requires state mandated corporal punishment as one of its fundamental tenets. Likewise, state endorsed physical punishment does not appear to favor or endorse a particular denomination. Again, similarly, judicial challenges to the practice of corporal punishment may be founded on other grounds. State action must bear some relationship to a legitimate state interest. Where it does not and where the liberty interests of a particular class are violated, the state action may be said to violate our notion of equal protection under the law. It is to this approach that we now direct our attention.

The liberty interests of school children are easy to identify. These rights are extensive and include a right to receive a public education in a manner that does not interfere with that student's personal autonomy. It is beyond the scope of this presentation to expound upon the extensive body of constitutional case law protecting these rights. It is instructive, however, to highlight that cases have protected students against psychological and social damage that comes from "stigma" resulting from school discipline.²⁴ The court has also consistently protected a student's physical autonomy as a liberty right of self-determination.²⁵ All corporal punishment represents a violation of each student's rights to physical integrity and human dignity. A court finding that corporal punishment deprives a student of liberty would not be inconsistent with these findings. That was not, however, the finding of *Ingraham v. Wright*.²⁶

In *Ingraham*, the court reviewed student beatings in a Florida Junior High School where the evidence showed there existed a significant and substantial history of cruel and severe beatings with little or no proof of student misconduct. The case

²⁴ *Goss v. Lopez*, 419 U.S. 565.

²⁵ *Rochin v. California*, 342 U.S. 165.

²⁶ *Ingraham v. Wright*, 430 U.S. 651.

was based upon Eighth Amendment (cruel and unusual punishment) and 14th Amendment (due process) claims. While space does not allow a detailed analysis, it is significant to note that on the Eighth Amendment challenge the court relied heavily on the “tradition” of corporal punishment in this country and that the practice dates to the earliest years of this country. The court’s decision stated that the children’s liberty was limited because the practice of corporal punishment was “rooted in history”. In regard to the procedural due process claims, the court stated that the “cost” of affording procedural due process to students prior to paddling outweighed any benefit. The court declined to address the substantive due process claims of the case.

It is troubling the court, in *Ingraham*, depended heavily in its reasoning upon history and tradition. Using this reasoning the court would never have confronted race discrimination or discrimination against women and the mentally retarded. Furthermore, by depending so intently upon the historical roots of the practice, the court refused to investigate the practice from a perspective of reason and current practice. This denied the court the opportunity to delve into whether facts and circumstances surrounding corporal punishment had so changed over the generations as to deprive the practice of any ground of support. In fact, this has been the case as seen below.

New occasions may teach new duties. The court stated that it could discern no visible trend toward the elimination of the practice. Today, recent history indicates just the opposite conclusion. A majority of states (29) have now banned the practice and virtually every western democracy has banned the practice as a matter of national policy. This is based partially on an overwhelming amount of literature in the fields of psychology and pediatrics which conclude that not only is corporal punishment ineffective but may seriously harm students; physically, emotionally and psychologically. A significant amount of scientific literature contends, in fact, that the practice of corporal punishment frustrates, not furthers, the state’s educational objective of promoting a student’s cognitive and academic abilities and potential and

teaching students appropriate social behavior.²⁷ Corporal punishment can cause serious harm to children and aggravate societal problems such as depression and substance abuse. Accordingly, school corporal punishment has been formally condemned by the American Academy of Pediatrics, the American Medical Association, the American Psychiatric Association, The American Psychology Association and the National Education Association among others concerned with children's educational, physical and emotional well-being.

The court's almost singular reliance and over-dependence upon history as a basis for upholding corporal punishment also prevented an inquiry into the discriminatory application of corporal punishment. An inquiry, in this regard, would reveal that minorities and students of low social-economic-status are significantly more likely to be the subjects of corporal punishment in schools which allow the practice. In the 2006 – 2007 school year, African-American students made up 17.1 percent of the nationwide student population, but 35.6 percent of those paddled.²⁸ These disparities violate students' rights to non-discrimination in access to education, making it harder for these students to succeed. Special education students, students with mental, physical or developmental disabilities, also receive corporal punishment at disproportionate rates.

CALL FOR JUDICIAL ACTION

John Rawls conceived of society as involving persons of diverse "comprehensive doctrines" coming together and consenting to be governed under the premise of an "overlapping consensus" where there is a convergence of principles upon which a majority agrees. This is an "idea that helps us think about our common life together".²⁹ That necessarily means that on some matters we will disagree.

²⁷ See generally American Academy of Pediatrics, *Consensus Statements*, 98 PEDIATRICS 853 (1996). See also Deana A. Pollard, *Banning Child Corporal Punishment*, 77 TUL. L. REV. 575, 602-620 (2003).

²⁸ U.S Department of Education, *Civil Rights Data Collection 2006*
<http://ocrdata.ed.gov/ocr2006rv30/wdsdata.html> (accessed September 4, 2008).

²⁹ Nussbaum, page 65.

“Consensus about substance is ever fragile and changing, as in a free society it ought to be” and we are dynamically forging new positions on issues everyday.³⁰

On these issues, the public church has almost never spoken with a single voice; that does not diminish its significance in our common life. The church needs to speak.

Among God’s promises to us was a promise of children – a promise of generations to inhabit and care for the earth. The promise was given at the time of creation and was repeated to Abraham and others through the Hebrew and Christian Scriptures. Children occupy central roles throughout the Scriptures. The innocence and vulnerability of children are recognized, as in the stories of Ishmael and Isaac, the story of Moses, the teachings of the Proverbs, and, in the Gospels, the stories of the little children following Jesus.

Children are our gift of hope for a future time when our broken and injured world is healed and our relationship with God becomes whole and just. How do we nurture our children? What gifts do we give to them to enable them to survive in wholeness and justice?³¹

Jesus challenged the moral basis of the existing laws of his day. Jesus did not bow to tradition if the tradition was void of moral content. “The Sermon on the Mount was a deliberate declaration that the old moral law was insufficient and that new ethical standards were needed for the new era.”³² Jesus Christ initiated the Kingdom of God which is characterized as a kingdom of social righteousness. The more Christian we become; the more we see God in growth and development; the closer we get to welcoming the Kingdom of God. “The victorious coming and kingly rule of Christ on earth is achieved by the organization of all mankind in a fellowship of children of God, and by the continuous ethical transformation of all society through

³⁰ Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, and Steven M. Tipton, *The Good Society* (New York: Vintage Books, 1992), 181.

³¹ Domestic Human Needs and Economic Policy Work Group, Interfaith Action for Economic Justice, *Children: The Promise* (Washington, D.C.: IMPACT Education Fund, 1987), I.

³² Rauschenbusch, 160.

the power of the Christian spirit. But since this takes place within the historic life of nations, the process is bound to human conditions and limits.”³³

Among the human conditions which limit the coming of God’s kingdom are public institutions which have “fallen”. “We have been socialized into patterns of injustice.”³⁴ Political, social and cultural institutions frequently deny, consciously or unconsciously, their spiritual essence and turn their backs on their divine vocation. In so doing they become demonic and become active agents in a domination system Jesus soundly rejected. For Wink, powers (public schools here) are divine creations brought into being for the good of humanity; they have fallen by drifting from their divine vocation, and must be redeemed. “For in him all things in heaven and on earth were created, things visible and invisible, whether thrones or dominions or rulers or powers – all things have been created through him and for him.”³⁵

Bella and many others have argued that a significant bar to a realization of a just and good society is the emphasis we place on individualism. This may also act as an impediment to an understanding of the atonement. How did Jesus bear our sins? In a very real sense, Jesus did “bear the weight of the public sins of organized society, and they in turn are causally connected with all private sins. In so far as the personal sins of men have contributed to the existence of these public sins, he came into collision with the totality of evil in mankind.”³⁶

Redemption for these sins comes when we become reborn by “dying to whatever in our social surroundings has shaped us inauthentically”.³⁷ This is why, as Christians, we must reject the practice of corporal punishment as inconsistent with the redemptive initiatives of God. We remember that Jesus was whipped and beaten during the Passion. This was to remind him and others that he was being humbled and ultimately crucified because he needed to be humiliated by the powers of that time. That is not to say that paddling a disorderly student rises to the level of the

³³ Rauschenbusch, 226.

³⁴ Wink, 95.

³⁵ Col 1.16 NRSV.

³⁶ Rauschenbusch, 247-248.

³⁷ Wink, 95.

Crucifixion. Metaphorically, however, they are very similar. Children are beaten to ensure conformity and subordination to those who view their beatings as necessary to establish order and ensure obedience.

It is time for judicial action. Eliminating the practice of corporal punishments in states has been, to date, a legislative matter. Legislatures, however, have taken over thirty years to enact prohibitions in just over a majority of the states. The Supreme Court should view this trend and the clear and convincing trend in the social sciences as a springboard from which to leap into action and seek an appropriate case to review corporal punishment again in light of these developments.

They may do so on at least two grounds. The court may proceed under a theory that corporal punishment of a student violates that student's right to substantive due process. In such a case, the court will determine whether there is a rational basis to the states' action. In other words, is there a legitimate objective the state is attempting to accomplish by its action? While this is a factual determination to be made by the court, with the mounting evidence it is conceivable (probable?) that the court would find today that allowing state actors to beat children is irrational (no rational basis) because the practice does not advance the state's objective of educating children. In fact, the court may determine, again based on evidence unavailable at the time *Ingraham* was decided, that corporal punishment actually frustrates the state's objective by increasing aggression and impeding cognitive development.

Secondly, the court may decide to proceed under a theory of equal protection. Students educated in public schools are the only class of persons subject to corporal punishment in this country today. Does this deny them equal protection under the law? Inmates in our prisons are protected from this abuse. Men and women in our armed forces no longer may be physically punished. Citizens residing in mental institutions are, similarly, not subject to this barbaric practice. The court inquiry under this approach would revolve around a determination of why students in this country have been singled out for such treatment. What substantial goal of the state is achieved by continuing a brutal practice visited upon some of our most vulnerable

citizens? Again, with the body of literature which has accumulated since *Ingraham*, it is not a stretch to propose that a future Court may rule the practice of corporal punishment as unconstitutional upon a finding that discrimination against this class (students) is a reflection and representation of bygone days that has no basis in legislative rationality and does not pursue any legitimate government objective.

CONCLUDING THOUGHTS

This is not to say that discipline in our schools is unnecessary. It is as necessary today as ever. What is needed is *effective* discipline. There is a better way. There is, today, a significant amount of research which demonstrates that positive forms of discipline such as counseling and mediation are more effective in addressing the need for student discipline.

As Christians, it is incumbent upon each of us to identify unjust social relationships and practices and work toward eliminating them. The case made above necessitates acts of reconciliation and restoration in our public schools. The call to create a “kinder and gentler” nation rests not just with parents, educators and policymakers but also with each of us. In this regard, each of us can work diligently to encourage school boards, legislators and other policymakers to prohibit the use of corporal punishment in schools and encourage them to provide educators with the training necessary to implement discipline techniques which are more effective and less abusive. Each of us can work diligently to reject a system and practice that teaches the use of violence is legitimate. Each of us can work diligently to encourage school boards, legislators and other policy makers to promote the development of an educational culture which promotes respect and tolerance, not an environment which promotes the use of violence as a means of discipline. Only in this way will the prospect of social transformation become more than an abstract concept and will the “kingdom” be advanced in our time.

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