

IS PHYSICAL DISCIPLINE OF A CHILD ASSAULT?

There is currently an ongoing consultation exercise on the website of the Scottish Parliament

(http://www.parliament.scot/S5MembersBills/John_Finnie_Final_Consultation_Document_pdf.pdf)

on a Bill proposed by Green MSP John Finnie somewhat emotively titled

"Children (Equal Protection from Assault) (Scotland) Bill

A proposal for a Bill to give children equal protection from assault by prohibiting the physical punishment of children by parents and others caring for or in charge of children"

The consultation document, which runs to some 33 pages in total, sets out the current legal position in Scotland, in the rest of the U.K., across Europe and beyond. Put simply the current position in Scotland is that parents/those responsible for the care of children have available a defence of 'reasonable chastisement' in regard to physical punishment of children and there have, over the years, been various cases heard in Court which have helped to clarify what amounts to 'reasonable chastisement' and what circumstances need to be taken into account in making that determination.

The Scottish Parliament debated this issue during the passage of the Criminal Justice (Scotland) Act 2003 and at that time the Parliament did not favour an outright ban on the physical punishment of children. Instead, the Parliament supported the option of prohibiting certain activities (such as striking with an implement, striking to the head and shaking) and setting criteria to follow in all other instances of alleged assault where a 'reasonable chastisement' defence was used. Effectively the 2003 Act set out in statutory form the criteria which had to be taken into account by any Court when dealing with the question of what amounted to 'reasonable chastisement' (all in response to a ruling of the European Court of Human Rights which the UK, as a signatory to the European Convention on Human Rights, was obliged to follow- and to amend its law to ensure it was in line with that ruling).

The issue is really whether or not the current system is adequate to ensure the protection of some of the most vulnerable people in society and whether that system needs to be changed.

Nobody would argue that it is always wrong for there to be any form of abuse of another person but does that necessarily mean that an outright ban in this area is the answer. Those who oppose any change to the current position would suggest, for example, that verbal abuse can be just as, or more, damaging to a child as mild physical chastisement and the proposed Bill doesn't deal with that. Further might it be the case that criminalising/prosecuting a parent who smacks their child in a particular situation would actually do more long term harm to the family?

Additionally, just how enforceable would an outright ban be and how consistently could it be enforced? Would there remain a discretion for the prosecuting authorities in determining which cases needed to be prosecuted and would it not be more appropriate for there to be the double safeguard of that discretion (which already exists) followed by a judicial process in those cases where it is thought necessary to prosecute? Just how detailed a role should the state play in determining appropriate family behaviours? Would legislating in this area address the perceived harm it seeks to redress or would it simply criminalise good parents? Is this actually necessary?

These are all difficult questions which ought to be considered fully by anyone addressing this issue (and are possibly the reason that the Scottish Government has indicated that they have no intention of legislating in this area at this time) but we, in addition, have to consider our approach as Christians. The reality is that within the Church there will be some on both sides of this discussion...but surely all will agree that we should have care of our children as a priority and we must take seriously our responsibility as a Church family to play our part in raising the Children within our fellowship and reaching out to those families outwith that fellowship.

Prayer Points:

Pray for our political leaders as they wrestle with difficult social issues.

Pray for those who respond to this consultation (that they might do so in a considered rather than emotional manner)

Pray for all those who have a part to play in the lives of our children.

Pray for families in our fellowship and for all the work that is done with our children.

Pray for opportunities to share the gospel with families outwith our fellowship.