

Commentary: Women's violence to children

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Feminists often feel uncomfortable about talking about, or even acknowledging, women's violence, whether it be women's violence to men, women's violence to other women, or women's violence to children. It is now generally recognised that women can be violent to their male partners, but that women's violence is often in self-defence, and does not usually result in the same degree of hurt and injury as does men's violence to women. As someone who, for many years, has been concerned about parental use of physical punishment, I have long been aware that women can also be violent towards their children.

It is almost a truism to point out that an abused child is a child who has also been physically punished. I have never heard of an abused child who had not also suffered physical punishment at the hands (or feet) of its parents. If New Zealand parents could be assisted, by means of education and support, to use the more positive and more effective disciplinary techniques, then children will be less likely to be injured.

In my view, all parents who hit their children are being violent towards them since they are, technically, assaulting them. But this would not be society's view of the harm caused to children by the usual forms of physical punishment. However, some parents seriously injure or even kill their children and there would be no argument that these parents have acted violently.

So who is being violent to children in this way? The literature suggests that both men and women can be abusive to children (Gelles and Cornell, 1985, Martin, 1983). But when it comes to homicide, men are more likely to be the killers of children. An analysis of figures supplied to me by the Police of children killed by their parents and step-parents between 1988 and 1994 indicates that mothers were the perpetrator in only one quarter (26 per cent) of child deaths; fathers were the killers in 39 per cent of the cases and step or de facto fathers in 34 per cent. More recent data on the eighty-seven child homicides between 1990 and 1999 (*New Zealand Herald*, 28/11/01) confirms that males rather than females, that fathers and stepfathers rather than

mothers, are far more likely to have been the perpetrators of the most severe form of violence to children. Of the offenders, 22 per cent were fathers, 21 per cent were stepfathers, 25 per cent were other family members and only 16 per cent were mothers.

We also know that men who abuse their partners are also likely to abuse their children. Bowker, Arbitell and McFerron (1988) found that 70 per cent of the battered women surveyed reported that their children had been abused by the batterer. Ross (1996) reports that the greater the amount of violence against a spouse, the greater the likelihood of physical child abuse by the aggressive partner. This relationship is stronger for men than for women. Fanslow (2002) has pointed out that 'the substantial overlap between the occurrence of child abuse and partner abuse in families, with between 30 and 60 per cent of families who report one type of abuse also experiencing the other type of abuse. The likelihood of co-occurrence of child abuse increases with increasing frequency of partner abuse' (Fanslow, 2002, p. 23). Thus, children who live in homes where their mother is abused are likely to themselves be abused.

When, in earlier work, I looked at some highly publicised child deaths at the hands of mothers or women caregivers, I found that women who were seen as responsible for the deaths of their children were punished extremely severely.

Although Tania Witika was originally to be a police witness against Eddie Smith, her *de facto* partner, the police later charged them both with murder. The Crown was unable to prove who the principal offender was (Revington, 1998). We do not know who inflicted the blows which killed her daughter, Delcelia, but Eddie Smith was known to boast of the way he had sexually abused the child. Both were convicted of manslaughter and both were sentenced to sixteen years' imprisonment.

It is clear that Tania did not protect her child from Eddie's Smith's abuse; nor did she seek medical attention for Delcelia's injuries. However, Tania's defence of battered women's syndrome was not even permitted to be heard in court. Is failure to protect a child of the same degree of heinousness as actually killing a child? Her lawyer, Frank Hogan, noted that battered women's syndrome was not recognised as a valid defence at the time of the trial: if it had been, he believed that her sentence would have been different (*New Zealand Herald*, 14/5/98).

Tania's case was aired on television (*Inside New Zealand: Deadly Love – the Tania Witika Story*, TV3, 10 May 1998). I started to watch the documentary with a decidedly negative attitude to Tania; by the end of the programme I had changed my mind and felt that a sixteen year sentence was far too long for a woman who clearly had been brutalised herself by a very violent man. Later that night I listened to radio talkback and was astonished at the degree of harshness still shown to Tania, both by the callers and the host. If there was increased awareness of battered women's syndrome and its effects within the judicial system, it had not at that time spread to the wider community.

Although Frank Hogan believed that there has been a change in the courts' attitudes towards battered women, others had reservations. Catriona MacLennan wrote in the *New Zealand Herald* (22/5/98) that although battered women's syndrome had been used in a number of cases and had achieved some degree of acceptance,

the approach has been piecemeal, and in some cases judges are still not permitting battered women's syndrome to be put to juries. There is no coherent understanding of, or agreement on, how the syndrome fits into the criminal justice system with long-established defences such as self defence, provocation and necessity.

Sacha Wallachs (1997) also believed that the usual defences of provocation and self defence fail to take into account the experiences of battered women who kill.

Another high profile case of child homicide in the late 1990s was the death of Shae Hammond at the hands of her carer, Elizabeth Healy. In this case there was no other offender, and it seemed clear that the injuries were inflicted while Shae was in Healy's overnight care. Healy's defence was that she had been drinking that night and had no memory of injuring the child. (*Sunday Star-Times*, 11/5/98). Healy was found guilty of murder.

My understanding is that the crime of murder requires intent; manslaughter is the appropriate charge when death results without prior planning or intention. I have no doubt that Elizabeth Healy was responsible for the child's death, but was this a planned, premeditated murder?

I have demonstrated that women are far less likely than men to kill the children in their care than men do. Why, then, when they do, are

they treated so harshly by the courts, and, if radio talkback is anything to go by, by their community?

Before I go on to try to speculate on this question, I must mention a child homicide that contradicts the picture I have drawn on the cases of Tania Witika and Elizabeth Healy. This was the case of Sharon Moke who killed her young son, Anaru Taylor, after months of abuse. The child had been removed from her at birth, by her gang member partner, and then just as capriciously returned to her about a year later by which time she had another baby. Her defense lawyer made much of alleged deficiencies in the help she had received from the Income Support Service. Though convicted of causing the death of her child, Sharon Moke received a non-custodial remedial sentence since the judge believed that a jail sentence would not benefit her or her other children, an attitude which I believe could have equally applied to Tania Witika. The judge may have been sympathetic to her because her relationship to the child had been disrupted by acts of the father over whom she had no control and so she had not been permitted to be a 'normal' mother and bond with the boy.

Of the cases of child homicide in the 2000s, there have been few high-profile cases of children killed by their mother. There have been a number of high profile child deaths in recent years where children have been killed by caregivers, for example, James Whakaruru, Coral Ellen Burrows, Saliel and Olympia Aplin: each killed by a stepfather (Office of the Commissioner for Children 2000, Coddington 2000, Office of the Commissioner for Children 2003). In these cases there does not seem to have been the same critical commentary on the failure of the mother to protect her child, as happened in the case of Tania Witika. Is society becoming more understanding of the stresses experienced by mothers who live with men who may ill-treat their children?

I can only speculate about why, in general, society, through its judicial system, has been so hard on women who are seen as responsible for the death of their children, but it would seem that if a woman departs from her traditional nurturing, caring role, and severely injures or fails to protect a child, then society exacts a harsher penalty than it might on a man in the same situation.

Washburne pointed out 'that prevention efforts in the field of child abuse and neglect have tended to focus on reducing general societal violence and eliminating corporal punishment.' (1983, p. 290). She

noted that the welfare of children is closely related to the welfare of mothers, and until greater efforts are made towards women's equality, child abuse will continue. Clearly, there is more understanding now of how child abuse can be prevented by, for example, the provision of home visiting programmes (Leventhal, 1996, Fergusson, Robins & Grant, 1997). The Government's new SKIP (Strategies with Kids, Information for Parents) uses existing community organisations to provide parents with information and support, but Washburne is correct: until women are empowered to remove themselves and their children from the violent men in their lives, child abuse will continue.

Children must be protected from the violence meted out to them by their caregivers, and the women who care for children must be protected from the violence of male partners. This will, in turn, contribute to a safer environment for their children.

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