

*Child Abuse*

within the bounds of moderation, but punishment must be for the child's welfare, without maliciously inflicting traumatic injuries. When punishment becomes unreasonable and traumatic injuries result, the state must intervene and exert its police power on behalf of the children.

I believe that we, Madam Speaker, as law makers must now act. There is no question as to the existence of the problem, nor of the need to find a solution. A problem of such major significance as the battered child requires the organized efforts and co-operation of all concerned persons and agencies for its ultimate solution. The abused child has no advocate. He is handicapped by his physical and mental immaturity. As Professor Bakan stated:

Child abuse thrives in the shadows of privacy and secrecy. It lives by inattention... A reasonable solution to the problem can come about only if there is a large scale acceptance that the welfare of children is of concern to the whole of the society and that the welfare and very survival of the total society critically depends upon the welfare of its children.

The question before us is: are we prepared to use our power as law makers to do our utmost and ensure that appropriate measures are taken, to the best of our ability, to prevent, identify and treat abused children, and to see that such instances do not recur? I say that the answer must be yes. This is one matter which we must recognize. Children have basic rights, the most important of which is the right to be a child. When children are deprived of this normal developmental growth, as are most abused children, unusual and strange things happen to their ability to make decisions, to use others, to trust and to become dependent on someone else. The Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1945 includes the following in Article 5:

No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

Section 2 of Article 25 states:

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Both these articles, Madam Speaker, which Canada endorsed, apply as much to children as anyone else. Very little is known about the battered child and his world. This, coupled with the fact that child abuse does exist is, I feel, one reason for a committee of this House to study the matter. This proposed study most look into the medical, legal and sociological aspects of child abuse. The logical solution would be to eliminate the problem. However, this appears to be impossible. Since this is the case, we must concentrate on the early case finding as a means of prevention.

The most desirable goal for treatment, of course, is that the child who has been selected for abuse will have it made safe for him to live in his own home. The beginning of the cure, and at times the only cure for the situation, may be removing the attacked child from his dangerous environment.

The great majority of child abuse cases are first seen either in a physician's office or in an emergency room. The manner in which this emergency care of the suspected case of child abuse is handled will set the stage, either for a smooth flowing therapeutic relationship for the child and his family, or for an ineffectual treatment program

which often leads to repeated abuse or even death. It is a serious national responsibility to guarantee every protection to our children. We must ensure that cases of abuse are identified and reported, and that proper care is provided for children.

Because these tragedies most frequently occur within the family, it is imperative that cases of abuse be detected as early as possible, so that adequate treatment is afforded to both the abused child and the abusing parent in order to re-unite the family, so that a loving atmosphere can once again be established.

Law, as well as medicine, is concerned with child abuse. The law can never serve the true ends of justice until lawyers and judges alike view the battered child as more than a legal problem. Each must commit himself to the ultimate welfare of the child and parent. An adequate child abuse law, in addition to the usual statement of purpose, definitions and procedural provisions, should include: first, specific reporting provisions, including a mandatory requirement that physicians and medical and hospital personnel, schools and public agencies report suspected cases of abuse. After abrogating the physician-patient confidentiality privilege, the law should encourage reports from individuals, and should grant immunity from civil damage actions to all who make reports in good faith, even reports which prove unfounded.

The law should include, second, well defined responsibility on the part of the police or public welfare agency to require prompt and thorough investigation of all such reports within clearcut channels of referral for the protection of the child; third, the broad jurisdiction of the court to protect any child within its boundaries, regardless of the residence of the parents; fourth, the right of a hospital or protective family to provide emergency care and shelter for a limited time; fifth, the authority for a court to make unilateral orders for temporary removal of a child from a parent, pending the filing of and a hearing on a petition or a complaint of neglect and abuse, where reasonable grounds are shown to justify such action. The law must also provide, sixth, that child abuse may be established by a preponderance of evidence, rather than beyond a reasonable doubt where an infant or child too young to testify on his own behalf sustains unexplained injuries. We should also review our laws forbidding persons from inflicting injuries on children, and urge provincial governments to consider reciprocal and related legislation.

The purpose of the reporting laws mentioned earlier are for the treatment of present injuries and to protect the child from further abuse. It is essential that there be one centralized depository where all cases of child abuse can be reported, to ensure a complete history and aid in the prevention of further abuse. Our laws should be a reflection of our attitudes to children. No simple solutions exist, but there are directions in which we can move. Studies have shown that the battering of children occurs throughout the population, and is not restricted to race, religion, education or socio-economic groups. I believe that we must act immediately to take steps to attempt to solve this problem.

I am not saying that it is feasible or even desirable to separate all abused children from their parents; but I am saying that, as legislators, we must expand our efforts in