

Cultural Considerations in Child Abuse Assessments

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Different cultures have different practices regarding discipline, sexuality, nudity, age of consent, and family bathing and sleeping patterns. What is acceptable in one culture may be labeled as child abuse in another. In addition, profound changes in areas such as age of consent and the acceptability of corporal punishment have occurred over time. Defining child abuse in a multicultural society is difficult and cultural factors must be considered when assessing cases of alleged abuse of children.

Different cultures have different norms concerning corporal punishment, sexuality, nudity, and family bathing and sleeping patterns. These standards vary both between cultures and between different time periods. Behaviors such as bathing together, sleeping together, and children touching their parents' genitals or accidentally observing parents having intercourse are common and do not indicate sexual abuse. In investigating allegations of child abuse, it is crucial to consider the variations in beliefs, attitudes, and child-rearing behaviors across cultures.¹

Vern Bullough discusses several famous men in history who were involved in some form of sexual behavior with children and young adolescents. The prophet Muhammed married a young prepubertal girl after his first wife died. Mahatma Gandhi took naked pubescent and prepubescent girls to bed with him to help him overcome "shivering fits." Lewis Carroll was attracted to prepubescent girls and

¹ Fontes, L.A. (2005). *Child Abuse and Culture: Working with Diverse Families*. New York, NY: Guilford Press.
Okami, P. (1995). Childhood exposure to parental nudity, parent-child co-sleeping, and primal scenes: A review of clinical opinion. *The Journal of Sex Research*, 32(1), 51-64.
Okami, P., Olmstead, R., Abramson, P. R., & Pendleton, L. (1998). Early childhood exposure to parental nudity and scenes of parental sexuality ("primal scenes"): An 18-year longitudinal study of outcome. *Archives of Sexual Behavior*, 27(4), 361-384.
Reisig, J.A., & Miller, M.K. (2009). How the social construction of "Child Abuse" affect immigrant parents: Policy changes that protect and families. *International Journal of Social Inquiry*, 2(1), 17-37.
Rosenfeld, A., Bailey, R., Siegel, B. & Bailey, G. (1986). Determining incestuous contact between parent and child: Frequency of children touching parents' genitals in a nonclinical population. *Journal of the American Academy of Child Psychiatry*, 25(4), 481-484.
Rosenfeld, A., Siegel, B., & Bailey, R. (1987). Familial bathing patterns: Implications for cases of alleged molestation and for pediatric practice. *Pediatrics*, 79(2), 224-229.
Sanjeevi, J., Houlihan, D., Bergstrom, K.A., Langley, M.M., & Judkins, J. (2018). A review of child sexual abuse: Impact, risk, and resilience in the context of culture. *Journal of Child Sexual Abuse*, 27(6), 622-641.
Sarid, O., & Shraga, Y. (2013). Infant sleeping and feeding patterning: A cultural perspective on maternal practices. *Journal of Nursing Education and Practice*, 3(6), 118-124.

enjoyed photographing them in the nude. Pulitzer Prize historians Will and Ariel Durant met in 1912 when he was 28 and she was a 14-year-old student in his classroom and were married shortly afterwards.² (In fact, my own great-grandmother was only 14 when she married my 25-year-old great-grandfather.)

In the past in the Netherlands, pedophilic relationships were not unusual and were generally accepted. Between 1970 and 1974 there were four study conferences openly sponsored by the Committee on Pedophilia.³ Theo Sandfort (1981) reports on research involving the sexual relationships between 20 acknowledged pedophiles in the Netherlands and their boys aged 10 to 16.⁴ There is no way such a study could be conducted today.

Genital Touching and Kissing

Incidental touching of parents' genitals by young children is not uncommon and it is a mistake to use these behaviors to support a suspicion of sexual abuse.⁵ Even deliberately kissing or touching the child's genitals is accepted in some cultures and does not by itself indicate sexual abuse. Journalist Debbie Nathan wrote about one of the highly-publicized day care cases in the 1980s, "County Walk" in Miami. Her article discusses how Latin American culture was part of this case.⁶ In Country Walk, the 36-year-old Cuban immigrant Francisco Fuster, and

² Bullough, V. L. (1990). History in adult human sexual behavior with children and adolescents in western societies. In J. R. Feierman (Ed.). *Pedophilia: Biosocial Dimensions* (pp. 69-90). New York: Springer-Verlag.

³ Bullough, V. L. (1990). History in adult human sexual behavior with children and adolescents in western societies. In J. R. Feierman (Ed.). *Pedophilia: Biosocial Dimensions* (pp. 69-90). New York: Springer-Verlag.

⁴ Sandfort, T. (1981). *The Sexual Aspect of Paedophile Relations: The Experience of Twenty-five Boys*. Amsterdam: Pan/Spartacus.

⁵ Johnson, T. C., & Hooper, R. I. (2003). Boundaries and family practices: Implications for assessing child abuse. In R. Geffner, K. C. Franey, T. G. Arnold, & R. Falconer (Eds.). *Identifying and treating sex offenders: Current approaches, research, and techniques* (pp. 1103-125). New York: The Haworth Press.

Okami, P. (1995). Childhood exposure to parental nudity, parent-child co-sleeping, and primal scenes: A review of clinical opinion. *The Journal of Sex Research*, 32(1), 51-64.

Okami, P., Olmstead, R., Abramson, P. R., & Pendleton, L. (1998). Early childhood exposure to parental nudity and scenes of parental sexuality ("primal scenes"): An 18-year longitudinal study of outcome. *Archives of Sexual Behavior*, 27(4), 361-384.

Rosenfeld, A., Bailey, R., Siegel, B. & Bailey, G. (1986). Determining incestuous contact between parent and child: Frequency of children touching parents' genitals in a nonclinical population. *Journal of the American Academy of Child Psychiatry*, 25(4), 481-484.

Rosenfeld, A., Siegel, B., & Bailey, R. (1987). Familial bathing patterns: Implications for cases of alleged molestation and for pediatric practice. *Pediatrics*, 79(2), 224-229.

Rosenfeld, A. A., O'Reilly-Wenegrat, A., Haavik, D. K., Wenegrat, B. G., & Smith, C. R. (1982). Sleeping patterns in upper-middle-class families when the child awakens ill or frightened. *Archives of General Psychiatry*, 39, 943-947.

Rath, F. H., & Okum, M. E. (1995). Parents and children sleeping together: Cosleeping prevalence and concerns. *American Journal of Orthopsychiatry*, 65(3), 411-418.

⁶ Nathan, D. (1993). Revisiting Country Walk. *Issues in Child Abuse Accusations*, 5(1), 1-11.

his Honduran wife, Ileana, were accused of molesting children in Ileana's home-based daycare service. The case began when a three-year-old boy told his mother that Ileana kissed the babies' bodies.

Ileana did allow the children to play naked and admitted kissing the bodies of the little boys, including one boy's genitals, but she consistently denied any sexual intent. Ileana was raised in a Honduran village. A Miami-based anthropologist, Rafael Martinez, observed that in traditional Latin American cultures, it is common for females to kiss children up to three or four years old all over the place, including on the genitals.

Nathan also discusses a case in which a Puerto Rican couple in San Juan were criminally charged with producing pornographic photographs and sending them through the mail. A news item about this case (UPI, November 18, 1987), states that anthropologists and other experts were scheduled to testify that in Puerto Rican culture it is acceptable for parents to masturbate a male infant, photograph the erection, and send pictures to relatives because a male infant with an erection is "an occasion for joy and celebration."

Reisig and Miller (2009) discuss a case in which a South American immigrant in Georgia was investigated for stroking her four-year-old son's genitals in an effort to put him to sleep. The woman claimed this was an acceptable behavior between a mother and son in her native culture. The authors note that acceptable parenting practices are socially constructed beliefs rooted in cultural context; therefore, what is acceptable in one culture may be labeled as child abuse in another.⁷

In 1991, John Money and two colleagues wrote about the importance of transcultural issues in evaluating suspected child molestation using as an example the Telugu-speaking people of India.⁸ Money's coauthors were from the region and had participated in the Telugu Hindu customs. In the Telugu Hindu culture, the parents and close relatives rock, hug, fondle, cuddle, and kiss babies all over their bodies. This includes lifting a male toddler up to mouth level and kissing his penis. The meaning of these customs is not erotic or sexual, but if done in America would most likely be misconstrued and the parents arrested for child sexual abuse. Money et al. use this example to illustrate the importance of transcultural issues in assessing the meaning of genital gestures and practices.

⁷ Reisig, J.A., & Miller, M. K. (2009). How the social construction of "child abuse" affect immigrant parents. *International Journal of Social Inquiry*, 2(1), 17-37.

⁸ Money, J., Prakasam, K.S., & Joshi, V.J. (1991). Transcultural development sexology: Genial greeting versus child molestation. *Issues in Child Abuse Accusations*, 3(4), 215-216.

Family Pictures and Child Pornography

A case I consulted on involved family pictures and child pornography allegations. The couple, both devout Catholics, were born in Central America and immigrated to the United States. They had two young sons and often were naked in the house which was common in their home country's culture. One day when the father came home from work and laid down on the floor to rest, his wife put the four-year-old on his back to play. She then took pictures of them playing together. She was making scrapbooks and frequently photographed the boys for this.

Later, when they wanted to take more photographs, the camera's storage chip was full so they took the chip to the pharmacy and asked the employee to transfer all of the digital files on the memory chip to a CD, thus freeing up space on the camera for more photographs. The employee printed twelve of the photographs and then contacted law enforcement. Most of the prints were of the oldest boy with his penis visible; one is of both boys lying on their backs with their penises visible; several are of the man holding, kissing, or playing with his naked older son.

After the pharmacy employee contacted the police, the father was charged with eleven counts of Second Degree Sexual Exploitation and two counts of Sodomy on a Child. The father explained that the photograph showing him kissing his son's penis was a symbolic father's cultural gesture of love for his son. He maintained there was nothing erotic, sexual, pornographic or exploitive in the incident. When the context and the totality of the circumstances is considered I did not believe the photographs constituted pornography or sexually explicit conduct. I wrote a report and the charges were ultimately dropped.

A comprehensive manual addressing this topic is written by Kenneth V. Lanning. (*Child Molesters: A Behavioral Analysis, Fifth Edition*, 2010).⁹ Kenneth Lanning was a special agent with the FBI for over 30 years and was assigned to the FBI Behavioral Science Unit and the National Center for the Analysis of Violent Crime. Lanning emphasizes the importance of keeping in mind what child pornography is and what it is not.

⁹ Lanning, K. V. (2010). *Child Molesters: A Behavioral Analysis for Professionals Investigating the Sexual Exploitation of Children: Fifth Edition*. United States Department of Justice: Office of Juvenile Justice and Delinquency Prevention and the National Center for Missing and Exploited Children.

Most people have photographs (digital or prints) of their children and many have photographs of naked children. Pictures of nude children by themselves are not generally considered sexually explicit or obscene. Child pornography must always be evaluated in the total context in which it is found. An accurate judgment cannot be made from the visual image alone. The intent of the photographer is critical in determining that a photograph of a naked child showing the genitals constitutes lascivious exhibition of the genitals and thus Sexual Exploitation of a Minor. The photograph must have been taken for sexual purposes.

Lanning notes that according to federal law a case can be prosecuted as child pornography if the image depicts a “lascivious exhibition of the genitals or pubic area” (18 U.S.C 2256). Simple nudity is not considered sexually explicit or obscene. Sexually explicit conduct means actual or simulated sexual intercourse, including vaginal, oral, and anal; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or public area (18 U.S.C. 2256(2)(A)). Lanning stresses that the material must be evaluated in context on a case-by-case basis and by considering the totality of the circumstances.

Co-Sleeping and Bathing

In many cultures, co-sleeping is overtly accepted, if not encouraged, and represents nurturing family bonds. In fact, some cultures consider the mainstream American practice of having infants and toddlers sleeping alone in their own beds as neglectful. Parents routinely bathe with their children in some cultures whereas in others it is shunned. It is important to differentiate between intimate parent-child interactions that are part of the family’s traditions and culture and intra-familial child sexual abuse.¹⁰

¹⁰ Fontes, L.A. (2005). *Child Abuse and Culture: Working with Diverse Families*. New York, NY: Guilford Press.
 Johnson, T. C., & Hooper, R. I. (2003). Boundaries and family practices: Implications for assessing child abuse. *Journal of Child Sexual Abuse, 12*(3/4), 103-125.
 Okami, P. (1995). Childhood exposure to parental nudity, parent-child co-sleeping, and primal scenes: A review of clinical opinion. *The Journal of Sex Research, 32*(1), 51-64.
 Okami, P., Olmstead, R., Abramson, P. R., & Pendleton, L. (1998). Early childhood exposure to parental nudity and scenes of parental sexuality (“primal scenes”): An 18-year longitudinal study of outcome. *Archives of Sexual Behavior, 27*(4), 361-384.
 Rosenfeld, A., Bailey, R., Siegel, B. & Bailey, G. (1986). Determining incestuous contact between parent and child: Frequency of children touching parents' genitals in a nonclinical population. *Journal of the American Academy of Child Psychiatry, 25*(4), 481-484.
 Rosenfeld, A., Siegel, B., & Bailey, R. (1987). Familial bathing patterns: Implications for cases of alleged molestation and for pediatric practice. *Pediatrics, 79*(2), 224-229.
 Rosenfeld, A. A., O'Reilly-Wenegrat, A., Haavik, D. K., Wenegrat, B. G., & Smith, C. R. (1982). Sleeping patterns in upper-middle-class families when the child awakens ill or frightened. *Archives of General*

In one case, a Japanese family that was living in the United States was reported for sexual abuse by a neighbor. The young child was interviewed at her school by a police officer who assumed something happened and engaged in highly suggestive questioning. The girl admitted bathing with her father and touching him. In the Japanese culture, many parents bathe with their children, enjoying the experience and feeling it builds better relationships between family members.¹¹ But the authorities did not consider this. Even if it had been assumed the touching allegations, elicited from the child through the suggestive interviews and seemingly admitted to by the father (who was given a coercive interrogation) were true, none of the behaviors mentioned in the interviews constituted sexual abuse.

The bathing and sleeping patterns described in this household were completely normal. It was a mistake to use them to support an allegation of sexual abuse. In a statement about the case, the mother observed about their sleeping and bathing arrangements: “I was encouraging my Japanese culture (taking baths, sleeping together with children). I thought those are things we do naturally, especially when children are still small, and a very special, important part of the family bond.”

A 2018 study explored Chinese undergraduate students’ perceptions of intimate parent-child interactions as contrasted to intra-familial child sexual abuse.¹² They recruited 354 undergraduate students from 15 universities and colleges in Beijing to participate in an online survey. The authors noted that most of the research on intimate parent child interactions has been in middle-class Western populations in developed countries, especially in the United States where the norms may be very different from other countries. They therefore wanted to compare these to Chinese undergraduates’ perceptions of what behaviors are appropriate.

They report that intimate parent-child interactions such as co-sleeping and co-bathing with both mother and father were common until 18 years of age although the age and gender of the children and the gender of the parents influenced the results. The rates of seeing these as appropriate declined as the child became older.

Psychiatry, 39, 943–947.

Rath, F. H., & Okum, M. E. (1995). Parents and children sleeping together: Cosleeping prevalence and concerns. *American Journal of Orthopsychiatry*, 65(3), 411–418.

Sanjeevi, J., Houlihan, D., Bergstrom, K.A., Langley, M.M., & Judkins, J. (2018). A review of child sexual abuse: Impact, risk, and resilience in the context of culture. *Journal of Child Sexual Abuse*, 27(6), 622-641.

Sarid, O., & Shraga, Y. (2013). Infant sleeping and feeding patterning: A cultural perspective on maternal practices. *Journal of Nursing Education and Practice*, 3(6), 118-124.

¹¹ Sukiya Living Magazine. The Japanese bath. Downloaded from www.rothteinen.com/topicfs/japanesebath.htm.

¹² Xie, Q., & Miller, J. (2018). Perceptions of intra-familial child sexual abuse and intimate parent-child interactions. *Asian Social Work Journal*, 3(2), 42-55.

However more than one-fourth had co-sleeping and co-bathing experiences when they were 15 to 17 years old.

A 2018 study in Israel describes mismatches between social workers assessing risk and two different minority cultures: the Ultra-Orthodox Jewish community and an Ethiopian community characterized by poverty and hardship.¹³ The authors note that risk, well-being, and protection are socially formed constructs that depend largely on the contexts in which families live. For example, a social worker might regard the physical closeness of boys and girls sharing the same bed as undesirable in terms of sexual behavior, whereas this might be normative in the culture. Ultra-Orthodox parents might perceive spirituality as a major concern whereas the social worker doesn't see this as a risk factor. They emphasize the importance of social workers understanding the culture of the families and considering the values, norms, and external economic constraints.

Age of Consent and Child Marriage

The age of consent laws vary from country to country and from state to state in the United States. Age of consent is defined as the age at which a person is considered to have the legal capacity to consent to sexual activity. In the United States, the age of consent varies between 16, 17, or 18. In several other countries it is as low as 11 to 15. Persons below the age of consent may not, by law, give consent, and sexual relations involving such persons may be criminally charged. Under statutory rape laws, consensual relationships with people who were very close in age could become criminalized, even if the older person doesn't know the correct age of the partner. There have been cases where an 18- or 19-year-old meets a girl on the web who claims she is of legal age, although she was only 13 or 14. They have sexual contact and the man is later not only arrested and convicted, but ends up on a sex offender registry.

Views regarding child marriage vary across cultures. High rates are found in some countries, including India, Pakistan, Bangladesh, Nepal, Afghanistan, Morocco and the Indigenous peoples of Mexico. Sanjeevi et al. (2018) see this as a social problem and a form of child sexual abuse. They observe that it is seen more frequently in African American and American Indian/Alaska Native ethnic populations as well as populations located in the Southern regions. They state that

¹³ Nadan, Y., Roer-Strier, D., Gemara, N., Engdau-Vanda, S., & Tener, D. (2018). In the eyes of the beholder: Parental and professional mismatch in child risk and protection in two communities in Israel. *International Journal of Psychology*. International Union of Psychological Science.

in this type of cross-cultural situation, clinicians should adopt a culturally responsive approach to client education.¹⁴

They also note that although child marriage may be more highly associated with cultures outside the United States, it occurs in the United States as well where it has been estimated to have a prevalence rate of 8.9%. Their reference for this figure¹⁵ defined child marriage as being married before age 18.

This also shows how US culture has changed over time. My great-grandmother was 14 in 1887 when she married my great-grandfather who was 25 and an established businessman. According to Sanjeevi et al., if this happened today their marriage would be categorized as a form of child sexual abuse.

Discipline and Punishment

Once accepted as a common and legitimate parenting tool, physical punishment is increasingly being redefined as a risk factor for children. In 1968 there was an almost universal consensus that corporal punishment was permitted; 94% of the United States population approved of spanking a child. There has been a significant decline since then and the approval rate had decreased to 68% in 1994.¹⁶ It has also declined in other countries.

Durrant (2008)¹⁷ notes that in the past many health professionals considered physical punishment to be an acceptable, appropriate, even necessary part of child rearing. As recently as 1992, 70% of family physicians and 59% of pediatricians supported spanking as discipline. However, physical punishment is now seen as a risk factor for child abuse, a shift that she observes is a “massive cultural change” seen not only in North America but around the globe. She also notes there are differences between cultures. She encourages professionals to help parents find new ways to discipline children that don’t involve physical punishment.

¹⁴ Sanjeevi, J., Houlihan, D., Bergstrom, K.A., Langley, M.M., & Judkins, J. (2018). A review of child sexual abuse: Impact, risk, and resilience in the context of culture. *Journal of Child Sexual Abuse*, 27(6), 622-641.

¹⁵ Le Strat, Y., Dubertret, C., & Le Foll, B. (2011). Child marriage in the United States and its association with mental health in women. *Pediatrics*, 128(3), 524-530.

¹⁶ Straus, M.A., & Mathur, A.K. (1996). Social change and trends in approval of corporal punishment by parents from 1968 to 1994. In D. Frehsee, W. Horn, & K. Bussman (Eds.). *Violence Against Children* (pp. 91-105). New York: Walter de Gruyter.

Straus, M. A. (2010). Prevalence, societal causes, and trends in corporal punishment by parents in world perspective. *Law and Contemporary Problems*, 73(1). Available at <http://www.law.duke.edu/journals/lcp>

¹⁷ Durrant, J. E. (2008). Physical punishment, culture, and rights: Current issues for professionals. *Journal of Developmental and Behavioral Pediatrics*, 29(1), 55-66.

In 2002, in New York City, a Chinese immigrant beat her 8-year-old son with a broomstick because he was not doing his homework. The mother was acting within the realm of acceptable parenting for Chinese culture, but when the boy's teacher noticed the welts on his skin, she notified authorities. The mother was surprised to learn of the American child abuse laws, and the family's two children were placed in foster care while she and her husband were investigated for child abuse.¹⁸

In 2004, a Vietnamese family brought their 6-week-old infant to a routine visit with the pediatrician. The visit revealed 14 bone fractures in the infant's body. Despite testimony from the child's pediatrician about what wonderful and caring parents they were, CPS removed the infant and her 3-year-old sister from the home while the parents were investigated for child abuse. It was discovered that the two children were sleeping on floor mats, a common sleeping arrangement in Vietnamese culture. The 3-year-old had been playing with the 6-week-old infant on the floor mats in such a way that it caused the fractures. After several months, the parents were reunited with their children.¹⁹

Discipline practices most people consider inappropriate may be accepted in other cultures. In some cultures children are forced to kneel on uncooked rice or on gravel. Some traditional Vietnamese families pierce a child's ear so they can tie the misbehaving child's ear to a doorknob as punishment. Fundamentalist Christians may force children to stand and hold Bibles in each hand with their arms extended.²⁰ Although cultural minority children deserve the same protection from harsh physical punishment as mainstream children, this needs to be accomplished in a culturally sensitive way. Fontes²¹ suggests that when working with families who use corporal punishment or other questionable practices, professionals should explain the laws regarding behaviors that are considered abusive and neglectful and the consequences of parents being charged with abuse.

The Cultural Defense

¹⁸ Zhao, Y. (May 29, 2002). Cultural divide over parental discipline. *The New York Times*.

¹⁹ Carlson, K. P. (2004). Child abuse or parent abuse? *Pediatrics*, 113, 181-182.

²⁰ Fontes, L.A. (2005). *Child Abuse and Culture: Working with Diverse Families*. New York, NY: Guilford Press.

Westby, C.E. (2007). Child maltreatment: A global issue. *Language, Speech, and Hearing Services in Schools*, 38, 140-148.

Resig, J.A., & Miller, M. K. (2009). How the social construction of "Child Abuse" affect immigrant parents: Policy changes that protect children and families. *International Journal of Social Inquiry*, 2(1), 17-37.

²¹ Fontes, L.A. (2002). Child discipline and physical abuse in immigrant Latino families: Reducing violence and misunderstandings. *Journal of Counseling & Development*, 80, 31-40.

Ethnic minorities and indigenous groups may ask the legal system to take their cultural background into account in both criminal and civil cases. A cultural defense asks judges to consider the culture of the litigants in ruling on a case. This isn't a black or white issue. There is a big difference between bathing with a child and ritual scarification and female genital surgery. Renteln²² observes that there is disagreement as to the degree to which cultural traditions constitute mitigating circumstances. She notes that some professionals argue that there should be no intervention provided individuals treat their children in accordance with their old rules. In contrast, the United Nations has taken a strong, absolutist position condemning traditional practices.

A cultural defense becomes more difficult in cases where a child risks damage. One example is ritual scarification where the parents makes incisions with a razor blade on the face of her child to make permanent scars. Another is female genital mutilation, also sometimes called female circumcision. (The U.S. Federal law criminalizes the practice and forbids any consideration of culture.) Other cases involve parents refusing to authorize necessary medical treatment.

Renteln favors an intermediate standard that forbids traditional practices only in extreme cases in which the child risks damage. She believes the legal system should sanction intervention when the parental action will lead to a potentially life-threatening condition or to irreparable physical injury. In terms of criminally charging the parent after the actions have been done, she believes an understanding of the defendant's culture is crucial to determining the parent's motivation and therefore their guilt or innocence.

Conclusions

Cultural context is important in assessing cases of child abuse. The way parents raise their children is a product of the values, traditions, and norms of their culture. What is acceptable in one culture may be labeled as child abuse in another. Professionals must take this into account when assessing risk and treating children and families of minority communities. Children must be protected from harm and injury but parents should have the right to engage in their traditional religious and cultural practices.

²² Renteln, A.D. (2004). *The Cultural Defense*. New York: Oxford University Press.