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Equal rights for children under the law



Jewish boys reading the Torah

Do private schools have adequate protections from child abuse?

Many laws to protect children from sexual and physical abuse in public schools do not govern private schools. Elliot Pasik, president of the Jewish Board of Advocates for Children, has tried for five years to get the New York legislature to enact equal protection for the half-million children attending non-public schools in New York State.

Pasik cites ten examples of unequal protection for private school children in New York laws. Fingerprinting and criminal background checks are mandated for all prospective public school employees. Public school employees are mandated reporters of suspected abuse. District attorneys are required to inform public school authorities whenever

a public school employee is convicted of child abuse in an educational setting and the Commissioner of Education is required to determine whether the employee has good moral character. Public school officials are required to report resignations to law enforcement when departing employees have been accused of public school-based child abuse. State law requires all public school administrators and teachers to complete coursework in identifying and reporting child abuse or maltreatment and in preventing school violence. Public schools must hire only certified teachers for teaching positions; those teachers are subject to discipline, including suspension or revocation of their certification when there are reasonable questions as to their moral character. New York law requires public schools to establish and implement school safety plans and public school districts to establish and implement written policies necessary to safeguard the life and health of children and to prevent abuse. State law requires that all public school children in grades K-8 receive instruction designed to prevent abduction of children. State law also requires public schools to have automated external defibrillators.

None of these protective measures is mandated for private schools.

In 2007 Pasik and allies did get a law enacted that *permits* non-public schools to fingerprint and do background checks on their employees. As of 2010, however, only 19 of New York's 1900

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non-public schools were doing criminal background checks and fingerprinting prospective employees.

The Rabbinical Council of America representing 1000 Orthodox rabbis supports laws requiring equal protections for children in non-public schools. Pasik charges, however, that other religious groups opposed his bills.

Corporal punishment outlawed in public schools

Another facet of unequal protection is that New York law prohibits corporal punishment in public schools only. Joel Engelman describes the corporal punishment in the yeshiva he attended in Brooklyn:

We were beaten on a regular basis by everyone, by our teachers, by the principal. Any adult, basically, in the school system had the right to beat us up. Physical punishment was delivered to me from a very young age as soon as I entered the school system. They would smack us in the face. They would beat us with belts, and every teacher had what they called the *shteken*, which means “the stick,” which he hand-chose and was to his liking, and he used that kind of stick on the class. Janet Heimlich, *Breaking their Will: Shedding Light on Religious Child Maltreatment* (Buffalo: Prometheus, 2011): 59.

Pasik says that, a few years ago, the New York Education Department issued a regulation prohibiting corporal punishment in non-public schools but has done nothing to promote awareness of the new rule or to enforce it. Corporal punishment is still used in yeshivas, he says.

New York bill introduced again

This year New York Assemblyman Dov Hikind, D-Brooklyn, has introduced A.9287 to require fingerprinting and criminal background checks for prospective employees in non-public schools. Those who wish to support this bill can send an email to Elliot Pasik at efpasik@aol.com, which he will forward to legislative sponsors and leaders.

Vermont bill extends equal protection

A bill has been introduced in Vermont to require equal protections in non-public schools. All adults employed in them would have to be given information “on the prevention, identification, and reporting of child sexual abuse” and “sexual

violence.” The information must include “signs and symptoms of sexual abuse, sexual violence, grooming processes” and “other predatory behaviors of sex offenders.” The bill also requires headmasters of independent schools to report when they have “reasonable cause to believe that any child has been abused or neglected.”

S.113 has passed the Vermont Senate and is now in the House.

Federal bill to improve protections

Two Pennsylvania Republicans, Congressmen Michael Fitzpatrick and Patrick Meehan, have introduced HR3766 in Congress. While several states have outlawed confidentiality agreements between schools and sex abusers within their borders, a federal law is needed to prevent abusers from moving across state lines to other school districts. HR3766 prohibits employers from facilitating employment of a person across state lines if the employer knows that the person has engaged in sexual conduct with a minor. It requires private and public school employees to undergo a fingerprint background check. It requires information regarding sexual conduct between school employee and minors to be turned over to law enforcement. HR3766 also requires schools to submit information on employment termination involving allegations of sexual conduct with a minor into a national clearinghouse that can be accessed by schools in other states.

The first provision amends the U.S. Criminal Code and applies to all employers. The others are enforced only through the power of funding. States would have to enforce those requirements in any school receiving federal funding. Reportedly, 40% or more of non-public schools receive some federal funding.

CHILD opposes requiring “allegations” to be entered in a national clearinghouse, but supports the other provisions of HR3766.

Barriers to reporting sexual abuse in the Orthodox community

The insularity of the Orthodox Jewish community has kept child sex abuse crimes out of view for decades, but in recent years the public has learned

that hundreds of children have been sexually assaulted by trusted Orthodox leaders.

Double victimization

Historically the community was ordered not to inform on fellow Jews but to bring accusations to rabbis. Public officials have been intimidated to drop investigations. Attorney Michael Leshner speaks of the “double victimization” of his clients: “first by the rabbi who abused them” and “second, by the silence in which they have had to carry the truth.” He has watched “that silence betray the obligations of memory and strengthen the guilty.”

Authorities believe Avrohom Mondrowitz, who claimed to be both a rabbi and a clinical psychologist, abused hundreds of Orthodox Jewish children in the early 1980s, but none of their families reported him to police. After the parents of a few non-Jewish children did press sodomy and child abuse charges against him, Mondrowitz fled to Israel in 1984. The Brooklyn District Attorney, Elizabeth Holtzman, filed extradition papers, but Israel then defined rape as only between a man and a woman. Homosexual rape was not an extraditable offense. Israel denied the extradition request.

Prosecutor waits 19 years to request extradition

When Israeli law was amended in 1988 to broaden the definition of rape, extradition arguably became possible. But the new Brooklyn District Attorney Charles Hynes said it was not. Leshner says he has documents from the U.S. Justice Department showing that a member of Hynes’ staff requested the Mondrowitz case be closed in 1993. (Hynes’ office denies making such a request.)

Though Mondrowitz is technically a wanted fugitive, he lives openly in Israel as a college professor and, reportedly, continued counseling children until 2006.

After Leshner and victims went on national television to expose his alleged crimes and the indifference of public authorities and Orthodox leaders, Hynes petitioned for Mondrowitz’s extradition in 2007. The Supreme Court of Israel rejected the petition in 2010, ruling that he could not get a fair trial after the many years’ lapse of time.

Rabbis ask parents to declare their son crazy

In 2000 a 9-year-old boy accused Brooklyn rabbi Solomon Hafner of physical and sexual abuse. A

law enforcement source said the family was threatened by members of their Orthodox community and the police gave the family 24-hour protection. The family moved to another Orthodox community.

The Orthodox community convened a rabbinical court, a bet din, to conduct its own investigation. The boy’s uncle later said that rabbis on the bet din had asked the family to sign a document saying the boy was crazy so that they could get the criminal case thrown out.

Rabbis also met with the district attorney to defend Hafner according to the law enforcement source.

Prosecutor dismisses charges while grand jury deliberates

The district attorney dismissed the charges while the grand jury was still considering a 96-count criminal complaint against Hafner. The rabbinical court then posted notices throughout the community declaring that Rabbi Hafner had behaved properly according to both Torah and state law.

Many Orthodox families fear that disclosure will harm their children’s marriage prospects. One woman, whose son was called to testify about an alleged instance of abuse, told *Newsday*, “I had rabbis coming by. They threatened we’ll have curses in our family. It might sound silly to you, but it was very frightening.”

The intimidation and harassment of victims and their families by the Orthodox community are well described in *Tempest in the Temple*, ed. Amy Neustein (Boston: Brandeis, 2009); Michael Salamon, *Abuse in the Jewish Community: Religious and Communal Factors that Undermine the Apprehension of Offenders and the Treatment of Victims* (Jerusalem: Urim Publications, 2011); David Mandel and David Pelcovitz, eds., *Breaking the Silence: Sexual Abuse in the Jewish Community* (Jersey City: KTAV Publishing, 2011); Daniel Eidensohn, *Child and Domestic Abuse: Torah, Psychological and Legal Perspectives* (CreateSpace, 2010); Rabbi Mark Dratch’s articles at www.jsafe.org; Stephanie Saul, “Tripping Up the Prosecution,” *Newsday*, May 28, 2003; by the blogs at FailedMessiah.com and theunorthodoxjew.blogspot.com, and by Survivors for Justice at www.sfjny.org.

Why a religious culture permits child sexual abuse

Is it possible that core theological doctrine condones sexual abuse of children? Michael Leshner, an Orthodox Jew and an attorney, suggests so in his riveting, evocative, and scholarly essay, “The Disposable Jew: Reflections on Child Sexual Abuse and Religious Culture.”

The title is chilling, but no more so than the experience of Jewish children who have been abused. By “disposable,” Leshner means that the child who is a victim of sexual abuse learns when he discloses the abuse that his experience and his personhood are less important to the tightly-knit Orthodox community than protecting the community from external threat and protecting the exalted image of the rabbis and other leaders.

Why is story called “the binding of Isaac”?

Jews, says Leshner, have much to be proud of in their “historical treatment of children,” but their traditions and doctrines also convey troubling attitudes toward children. Orthodox Jews are supposed to recite daily a passage from the story of Abraham’s near sacrifice of Isaac. They call the story “the binding of Isaac.” Leshner claims the nomenclature indicates that the real subject is not the boy’s rescue from death, but his forcible subjugation. The story tells virtually nothing about Isaac’s feelings either before or after his near-killing.

Jews who internalize the meaning of the story, Leshner claims, are likely to believe that in any situation involving the violent use of a child it is the adult’s perspective, not the child’s, that matters.

Leshner points out that in Isaiah 47:2-3, Hosea 2:12, and Ezekiel 16:37-39 God himself metes out sexual abuse as a punishment.

Protecting institution and clerics is top priority

Leshner’s clients report that their disclosures were met with concerns for the damage to the community, but not empathy for them. A rabbi told Leshner not to pursue redress for the victims because people would think the rabbis were homosexuals.

In 2006 Leshner discussed on national television the abuses and the prosecutor’s refusal to seek extradition. One Orthodox rabbi accused him of “desecrating God’s name,” one of the gravest sins in

the traditional canon. Another Orthodox leader accused him of being not only a sinner but also an imposter for no Orthodox Jew would publicize child abuse as a religious issue.

Rabbis govern sexuality

Leshner also argues that Orthodox attitudes toward sex contribute to the vulnerability of Orthodox children. “In the traditional Jewish world, sexuality is as much rabbinically governed as are the dietary codes, or the order of prayers. Jewish law concerns itself with every aspect of sex: when, how, where, why—and every twist in the law means another opening for rabbinic decision-making.”

Compilations of Jewish sex law include stern moralizing about, for example, the evil of sleeping on one’s back (which may invite masturbation), homosexuality, looking at immodest clothing in store windows, boys being in the same room with an unmarried adult woman, and male-female touching but say nothing about pedophiles abusing children. A 1987 text compares masturbation to murder yet is silent on preventing child sexual abuse.

Religion-induced guilt makes kids vulnerable

One victim said the only thing he was taught about sex was that even looking at a girl polluted his purity. His abuser then used the boy’s feeling of unworthiness to manipulate him into sexual encounters and coerce his silence. One victim said he felt as if he had a big sign on his back that said “Whore.”

Members of the Orthodox community routinely ask their rabbis for opinions and blessings on all matters. They want the rabbis to be infallible to avoid taking responsibility for their own choices, Leshner charges. “We are likely to deny abused children justice so that we can remain children ourselves,” he says.

Protecting tradition and privilege still more important than learning from victims

In the last few years some Orthodox leaders have spoken out about child sex abuse in their community. But even now, Leshner argues, they describe it as a virus invading from the outside world. They locate the problem as a lapse in self-control to be “corrected by stricter adherence to the existing code” with “the subtle correlative” that “abuse victims have nothing to teach the

community.” They do not call for children to be educated in sexual identity and comfort with natural sexual feelings. They show no willingness for rabbis to give up their emotional and moral control over this insular community. They prefer that all the community’s problems be handled by rabbinical courts and are deeply suspicious of secular authorities.

There is also, of course, much in Jewish theology requiring protection and nurturing of children. And public confession of sin is required in Yom Kippur. Ben Hirsch, president of Survivors for Justice, says the Torah teaches that leaders in particular must “publicly confess and atone” for their sins.

Leshner posted his essay online after Jewish periodicals declined to publish it.

Public money for sectarian justice

In July, 2011, 8-year-old Leiby Kletzky was murdered in Brooklyn on his way home from a Jewish day camp. Orthodox Jew Levi Aron has confessed to the crime. Also shocking, says Michael Leshner, was that Leiby’s disappearance was “only belatedly reported to the police and that a privately run Orthodox Jewish ‘patrol’ called Shomrim reportedly had video evidence that went unused during the crucial hours before the murder, while untrained Jewish laymen tried to handle the investigation themselves.”

Crimes by Jews should be reported first to rabbis

It has been widely reported that Jewish patrols regularly withhold information on suspected child molesters if they are Jewish. New York police have criticized these patrols for failing to notify them of some of the calls their operators receive about victims.

Even after Leiby disappeared, the vice-president of Agudath Israel’s Supreme Council of Rabbinic Sages emphasized that child sexual abuse allegedly committed by a Jew must be reported first to a rabbi who will decide whether police should be contacted despite New York law requiring that suspected child abuse be reported directly to state child protection services. Later Agudath Israel said the

rabbi had to be consulted first only when one was unsure of whether the abuse had reached a “threshold” requiring reporting to state authorities.

“Death threats signed by dozens of rabbis appeared some years ago in a Yiddish Brooklyn newspaper against anyone who ‘informs’ on a fellow Jew to secular authorities,” Leshner says. Such threats violate federal civil rights law, he points out.

Patrols publicly funded

The Jewish patrols operate in only a few Brooklyn neighborhoods and serve only one religious community. They lack police training and have no power to make arrests. Yet they receive hundreds of thousands of dollars from the city council of New York City.

A stated purpose of one patrol is to deal with “bias crimes.” A patrol run exclusively by and for a single religious group is not likely qualified to enforce anti-discrimination laws, Leshner says.

If the Nation of Islam were to set up a private force of Muslims to scour the city for “bias crimes,” “would City Council members be heaping public money into its coffers?” he asks.

Taken from Michael Leshner, “Orthodox cops: separate and unequal” posted online July 30, 2011.

Kol Tzedek

While public funding for the Jewish patrols described in the previous article appears to be a violation of church-state separation principles, Brooklyn District Attorney Charles Hynes has a collaboration with Jewish organizations that seems more appropriate. Announced in 2009, it is named “Kol Tzedek,” which is Hebrew for Voice of Justice.

It includes counselors fluent in Yiddish and Hebrew who speak to callers about child sexual abuse and their fears about reporting it. Callers can remain anonymous and are not pressured to pursue criminal charges.

In December, 2011, Hynes announced these results from his Kol Tzedek project:

85 accused predators arrested since January, 2009

117 victims: 89 under age 17, the rest up to age 23 when the statute of limitations expires

47 cases pending, 38 closed

14 offenders sentenced to jail from a month to 10-to-20 years for crimes that included sex abuse, attempted kidnapping, and sodomy

24 free, either on probation after pleading to lesser charges or after cases were dismissed, often because victims or their parents backed out under community pressure.

Rabbinic and institutional intimidation persist

Michael Lesher, an Orthodox attorney who represents victims of child sexual abuse, praised the results as progress, but charged that rabbinic and institutional intimidation still dissuades some parents from reporting. He points out that an Orthodox social services agency, which is a partner with the district attorney, “carefully excised from the DA’s press release every reference to police, prosecutors or the reporting of crimes” in its newsletter about Kol Tzedek. And the same week the Kol Tzedek results were announced, the editor of *Ami*, a popular Orthodox Jewish magazine, “smear[ed] as virtual anti-Semites those who criticize how the Orthodox handle sex-abuse cases.”

Sources include Susan Edelman, “Orthodox sex abuse scandal,” *New York Post*, Dec. 11, 2011; Michael Lesher, “Fight against intimidation must rage on,” *New York Post*, Dec. 11, 2011; Lesher, “Orthodox cops: separate and unequal,” *New York Post*, July 30, 2011.

Finally—supervisors are charged

The Catholic Church has paid over \$3 billion in settlements and awards to 3,547 American survivors of child sexual abuse since 1950 according to www.BishopAccountability.org. By 2004, criminal charges had been filed against 384 U.S. priests resulting in 252 convictions.

Not until 2011, however, was a church official charged for his administrative handling of the priest-abuse crisis.

A jury has been seated for Monsignor William Lynn’s trial in Philadelphia on charges of conspiracy to endanger the welfare of a child.

Monsignor admits hiding “dirty laundry”

Lynn admitted to a grand jury that he assigned allegedly abusive priests to schools and parishes without informing those communities because “you don’t always put all your dirty laundry out.”

When a man told Lynn that a priest had repeatedly raped him, Lynn told him the priest denied the allegations even though Lynn knew the priest had admitted them. Lynn told the grand jury that he dismissed the man’s allegations as money-driven.

Accusations of sexual abuse by priests were kept in a secure room rigged with an alarm. Lynn was the main investigator of sexual abuse complaints for the diocese and prepared a list of 35 accused priests for the cardinal, who later ordered all copies of the list shredded.

Lynn’s memos to his superiors show calculation on preventing bad publicity for the church. He also told the grand jury that under canon law a priest has a right to his “reputation.”

Do supervisors have a duty to stop staff from abusing children?

Janis Smarro, a criminal law attorney in Philadelphia with no connection to the trial, says that Lynn may have a strong legal defense because the statute as written at the time of the alleged abuses did not cover him.

The law then made it a crime to endanger the welfare of a child by being aware of the threat to the child and failing to protect him or her, but applied only to persons such as nannies and guardians who had a direct duty to the child, Smarro says.

The law has since been revised to include those who supervise an alleged abuser.

Bishop indicted

Grand juries in Jackson and Clay Counties in Missouri have indicted Bishop Robert Finn and the Diocese of Kansas City on misdemeanor counts for failure to report that a priest under his supervision was taking lewd photographs of young girls.

Pledge broken to report suspected abuse

The bishop has acknowledged learning of the photographs in December, 2010, but not reporting to public authorities for six months. During that interval, the priest is said to have continued to

attend church events with children and taken lewd photographs of another young girl.

A decade ago the American bishops pledged to report suspected abusers to law enforcement authorities—a policy also recommended in 2010 by the Vatican. Bishop Finn himself had made such a promise in 2008 as part of a \$10 million legal settlement with abuse victims in Kansas City.

Prosecution avoided by diversion program

A month after the indictments were unsealed Finn made a deal to avoid prosecution in Clay County by entering a diversion program. He will meet monthly with a county prosecutor to detail every suspicious episode involving abuse of a child in his diocese for the next five years.

The prosecutor said the agreement would build accountability and protect children. The grand jury investigation showed that “good people were having difficulty making good choices,” he said.

Victims’ advocates were very disappointed, describing the diversion agreement as weak and cozy.

New Hampshire requires public disclosure

Anne Barrett Doyle, co-director of www.BishopAccountability.org, said the most effective agreement was in Manchester, New Hampshire, where the attorney general sent auditors into the diocese annually for five years to inspect records and interview personnel. Information the auditors found about abusers was released to the public.

“New Hampshire is head and shoulders above the others because it forced public disclosure,” Ms. Doyle said. “The attorney general didn’t rely on the diocese to do it.”

“Reasonable cause to suspect” has clear meaning

Finn still faces the failure-to-report charge in Jackson County. His attorneys argue that the law requiring reports when one has “reasonable cause to suspect” abuse is unconstitutionally vague and that he cannot be prosecuted for violating it because he was not the designated reporter for the diocese. In another case the Missouri Supreme Court held that the reporting law was constitutional and had a clear meaning to ordinary people. *Missouri v. Leslie Brown*, 140 SW3d 51 (Mo. 2004)

Sources include *New York Times*, Oct. 14 and Nov. 16, 2011; *Philadelphia Inquirer*, Sept. 2, 2011; NPR, Feb. 19, 2012; *Kansas City Star*, Feb. 12, 2012; and *Huffington Post*, Feb. 27, 2012.

Another baby dies in circumcision ritual; will ultra-Orthodox change?

A two-week-old New York City infant died in September of herpes caused by “ritual circumcision with oral suction.” The death did not come to light until March, 2012, in a *New York Daily News* investigation.

Oral suction is practiced in ultra-Orthodox and, to a lesser extent, in Orthodox Jewish communities. The mohel (the person performing the circumcision) removes the foreskin of the penis and then sucks the blood from the wound to clean it.

Inherent risks for infants

City health officials have criticized the practice, saying that having the mohel’s mouth in contact with the open wound carries “inherent risks” for the infant. The Rabbinical Council of America has a resolution against it.

In 2003 and 2004 three infants contracted herpes linked to the oral suction ritual performed by Rabbi Yitzchok Fischer. One of the infants died.

Little cooperation with district attorney

The Brooklyn District Attorney, Charles Hynes, tried to investigate the deaths, but received little cooperation from the Orthodox community. Fischer was later prohibited from performing the ritual in New York City.

In 2012 Hynes is again trying to investigate. Reportedly, the dead boy’s parents are stonewalling investigators and are related to the mohel who performed the ritual.

Sacred ritual is unregulated surgery

Circumcision is a sacred ritual in all branches of Judaism. The patriarch Abraham circumcised himself, and circumcision gives the baby “the mark of the covenant” between God and Abraham.

It is also, however, surgery. States have enacted exemptions from medical licensure for those performing ritual circumcision.

The American Board of Ritual Circumcision, a private group, says that it has high standards for certifying mohelim both in medical skills and ritual practice. It's "the parents' fault," a board spokesman said, if they choose a mohel who just prints a business card and calls himself a mohel. The board has certified mohels in only a few states. Other sources say "certification" by various non-governmental organizations does not necessarily guarantee good skills. See, for example, www.cybermintz.com:9080/certification.

Circumcision can be both safe and sacred

Rabbi Avi Billet has many recommendations for safe circumcision at his webpage, www.mohelinsouthflorida.com. He castigates as "arrogant" and "stupid" mohels who "think they know better" than experienced teachers or think theirs is the only kosher way to circumcise. A pediatrician friend and a medical nurse have told him of botched circumcisions by mohels.

Many Jewish leaders oppose state regulation of a religious procedure. Agudath Israel of America opposes required testing of mohelim for infectious diseases and a ban on oral suction. "Word of mouth is the best regulatory system," a spokesman for Agudath Israel said.

"We will not change."

In 2005 New York City Mayor Michael Bloomberg assembled city rabbis to try to persuade them to stop the ritual of oral suction. The rabbis, however, said it was safe and could not be proved to cause herpes. "The Orthodox Jewish community will continue the practice that has been practiced for over 5,000 years," Rabbi David Niederman of the United Jewish Organization in Williamsburg, Brooklyn, said at the time. "We do not change. And we will not change."

Mayor: religious liberty has limits

On March 6, 2012, however, Mayor Bloomberg spoke out about the medical examiner's report on the most recent infant death. "There is probably nobody in public life who fights harder for the separation of church and state than I do, but I just wanted to remind everybody: religious liberty simply does not extend to injuring others or putting children at risk," he said.

Sources include *The New York Times*, March 7, 2012; *Broward Palm Beach New Times*, March 5, 2012; and www.failedmessiah.com.

"A well-trodden path"

"Our rabbis have chosen a well-trodden path: that of the Catholic church," said Ben Hirsch, president of Survivors for Justice.

Rabbinical organizations and the Catholic church are united in their opposition to civil suits by child sex abuse victims. For eight years New York Assemblywoman Margaret Markey has sponsored bills to extend the statute of limitations for victims to file complaints against their abusers. It has passed the Assembly more than once, but never gets approval in the Republican-controlled Senate. This session the bill is A5488, the New York Child Victims Act.

Hirsch finds it ironic that for years rabbinical organizations insisted their communities had no problem of child sex abuse, but now claim A5488 would ruin them financially.

What appears so consistent to us in the abuses is the misplaced priorities. In cases we've reported the Orthodox leaders, Catholic clerics, Jehovah's Witnesses, the Amish *et al.* all place most importance on protecting religious institutions and communities or the exalted status of clerics rather than on empathy for the victim.

Sources include *The Jewish Week*, March 11, 2010.

About CHILD Inc.

CHILD works to stop harms to children related to religious beliefs, cultural traditions or quackery. CHILD opposes religious exemptions from child health and safety laws.

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