

## **`Aotearoa/New Zealand fourteen years on from repeal of 59 Crimes Act 1961.**

In 2007 the Crimes (Substituted section 59) Amendment Act was passed. Changes were eventually incorporated into a replacement section 59 of the Crimes Act 1961. The law change removed the legal defence of “reasonable force” which had been available to parents prosecuted for assault on their children. Hitting children as a form of punishment was outlawed.

At the time of the law change Aotearoa New Zealand was the 19<sup>th</sup> country to make physical punishment of children illegal. Currently (August 2021) 63 countries and territories have banned physical punishment of children<sup>1</sup>. In other countries with a similar law to New Zealand’s before the law change the United Kingdom Scotland and Wales have banned physical punishment in all settings but England and Northern Ireland have not. Progress towards law reform in the United States of America, Canada and Australia has been limited.

Among the reasons that advocates for change in Aotearoa New Zealand called for law reform was the increasing research evidence that physical punishment of children was harmful to their well-being and development. Physical punishment of children has been an accepted part of child-rearing for many centuries in many cultures including those from where most European settlers in Aotearoa New Zealand originated. It was therefore a long-held tradition that was going to be hard to change.

One of the aims of law reform was to accelerate social change so that more and more parents would stop using physical punishment and learn more positive ways to discipline their children over time. It was extremely unlikely that law change by itself would stop all use of physical punishment.

Recent research reports are of interest.

The first provides up to date evidence that physical punishment harms children.<sup>2</sup> This study summarises the findings of 69 other studies. It identifies 7 key themes.

1. *“Physical Punishment consistently predicts increases in child behaviour problems over time.*
2. *Physical punishment is not associated with positive outcomes over time.*
3. *Physical punishment increases the risk of involvement with child protection services over time.*
4. *The only evidence of children eliciting physical punishment is for externalising behaviour.*
5. *Physical punishment predicts worsening behaviour in quasi-experimental studies over time.*
6. *Associations between physical punishment and detrimental child outcomes are robust across child and parent characteristics.*
7. *There is some evidence of a dose-response relationship”.*

The authors conclude, *“The consistency of these findings indicates that physical punishment is harmful to children and policy remedies are warranted”.*

Another very recently released research paper<sup>3</sup> systematically assessed the association between corporal punishment and young children’s development in low- and middle-income countries. It

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<sup>1</sup> <https://endcorporalpunishment.org>

<sup>2</sup> Heilmann, A., Mehay, A., Watt, R., Kelly, Y., Durrant, J., van Turnhout, J., Gershoff, E. *Physical punishment and child outcomes: a narrative review of prospective studies*. Published online June, 2021. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00582-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00582-1/fulltext)

<sup>3</sup> Cuartas.J., *Corporal punishment and early childhood development in 49 low income and middle-income countries*. Child Abuse and Neglect 120 (2021) 105205. <https://doi.org/10.1016/j.chiabu.2021.105205>

concluded, “All forms of corporal punishment – including spanking – are likely to be harmful to small children’s development and well-being. Public education, legal prohibition of corporal punishment, and other efforts are needed to protect children from corporal punishment and promote their wellbeing, health and development”.

These are compelling reasons for countries to make corporal punishment of children illegal and to make long-term efforts to bring about social change. What do we know about how New Zealand is performing 14 years post law change?

A recent article published in New Zealand medical journal documented the prevalence of child physical punishment by parents in the Christchurch Health and Development Study birth cohort over a 15 year period between 2002 and 2017.<sup>4</sup> It included results from before and after law change.

*“Results demonstrate a clear downward trend in parental reported use of child physical punishment over this period, both in terms of the proportion of parents still relying on physical punishment, but also how often they used it”.*

*“This trend could not be explained by difference in family structure, personal characteristics, or the family background of parents at each age assessment. Other possible explanations include increasing maturity of the parents over time (less reactive and more experienced older parents): a cultural shift towards the unacceptability of violence towards children over the period of the study; and the law change in 2007 which prohibited physical punishment and violence towards children”.*

*“Results showed that at age 25 over three quarters of parents reported using physical punishment on their children, with this rate declining to just over 40% of parents at age 40”.*

The New Zealand Health survey<sup>5</sup> conducted by the Ministry of Health asks parents of children 0-14 years of age a question about parental use of physical punishment in the last four weeks. In 2006/07 it found that 10.4% of children had experienced physical punishment and in 2015/16 this had reduced to 5.1%. In 2015/16 a second question asked parents if there are certain circumstances when it is alright for parents to use physical punishment, such as smacking. 52.7% parents agreed with this statement.

Over many years other studies have examined attitudes physical punishment of children using similar questions. In 1981<sup>6</sup> there was an 89% rate of approval of physical punishment. In 1993<sup>7</sup> this had dropped to 87 % and in 2008<sup>8</sup> (the year after the law change) this was down to 58%. In 2013<sup>9</sup> (six years after law reform) it had dropped further to 40%.

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<sup>4</sup> McLeod, G., Horwood, J., Boden, J., Woodward L.; *Parental use of physical punishment in a birth cohort*. NZMJ 30 April 2021. Vol 134 No 1534. [www.nzma.org.nz/journal](http://www.nzma.org.nz/journal)

<sup>5</sup> Ministry of Health. New Zealand Health survey. Wellington 2019/2020. <https://minhealthnz.shinyapps.io/nz-health-survey-2019-20-annual-data-explorer/> w b93d642b/#!/explore-topics

<sup>6</sup> Richie, J. *Boys will be boys: New Zealander’s approval of violence*. A paper presented at the Women’s Studies Association Conference. Wellington 1981.

<sup>7</sup> Maxwell, G. *Physical punishment in the home in New Zealand*. Office of the Commissioner for Children. Wellington. 1993.

<sup>8</sup> Office of the Children’s Commissioner. Omnibus survey report. *One year on: public attitudes and New Zealand’s child discipline law*. Wellington. Office of the Children’s Commissioner. 2008.

<sup>9</sup> Wood, B. *Physical Punishment of children in New Zealand – six years after law reform*. [https://epochnz.org.nz/images/2013\\_Physical\\_punishment\\_of\\_children\\_in\\_New\\_Zealand\\_2.pdf](https://epochnz.org.nz/images/2013_Physical_punishment_of_children_in_New_Zealand_2.pdf)

In 2013<sup>10</sup> 35% of current parents indicated that they believed that use of physical punishment is sometimes alright but by 2018<sup>11</sup> this had dropped to 19%.

It is clear from all the studies that social change is occurring and that trends are positive despite some inconsistencies in results between studies. Sadly, the Christchurch cohort study<sup>12</sup> suggests that up to 40% of young children in Aotearoa New Zealand are still exposed to physical punishment.

This study also tells us something about who these children might be. The study found a strong association between intimate partner violence and the use of physical punishment. There were modest links with socio-economic background. The strongest predictor found was the number of 2 to 10 year olds in a household and in particular the number of two to four year olds.

There is nothing new in these association – the ongoing need to reduce domestic violence in Aotearoa New Zealand (and violence in general) has been well known for many years as is the need to give greater relief to those that live with the stress of inadequate incomes. Very important is the need for those with young children to have access to support and information about management of the demanding behaviours of young children.

It is beyond the scope of this short report to examine relevant current policy and assess its likely effectiveness in reducing violence to children, including the use of physical punishment. But this is an exercise that should be done if Aotearoa New Zealand is to seriously address children's wellbeing and rights.

Beth Wood

Wellington, New Zealand

August 2021.

Beth Wood is a retired child advocate who was co-founder of EPOCH New Zealand and in various capacities, over many years, advocated for the Repeal of Section 59 Crimes Act. She is co-author of *Unreasonable Force: New Zealand's journey towards banning the physical punishment of children*<sup>13</sup>.

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<sup>10</sup> ibid

<sup>11</sup> Save the Children New Zealand. *Changing attitudes to physical punishment of children in Aotearoa New Zealand*. <https://www.savethechildren.org.nz/assets/Uploads/STC-Childrens-Report-DIGITAL-1.pdf>

<sup>12</sup> McLeod, G., Horwood, J., Boden, J., Woodward, L. : *Parental use of physical punishment in a birth cohort*. NZMJ 30 April 2021. Vol 134 No 1534. <https://pubmed.ncbi.nlm.nih.gov/33927435/>

<sup>13</sup> <https://epochnz.org.nz/images/stories/documents/s59%20Book.pdf>