

A time for change?

This is the first of a series of briefing sheets to MPs as they prepare for parliamentary deliberation on Sue Bradford's private member's bill.

As the Bill goes through the different stages of the parliamentary process we will provide useful information relevant to that stage of the debate.

It is essential that the Bill passes successfully through the Second Reading if there is to be proper consideration of the various amendment options.

We urge all MPs to consider supporting the Bill at the Second Reading stage.

This briefing sheet has been provided by the following organisations —

- Barnardos NZ
- EPOCH NZ
- National Collective of Independent Women's Refuges
- Plunket
- Save the Children NZ
- Unicef

This briefing sheet has been written to inform MPs preparing for the forthcoming parliamentary debates on the *Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill* as reported back by the Justice and Electoral Select Committee.

The Justice and Electoral Select Committee tabled its report in Parliament in November 2006 reflecting the public submissions it had received. The Second Reading seems likely to occur in February or March 2007.

A mood for change

We have met with a large number of MPs both in Wellington and in their electorates. In all cases we have been listened to carefully and considerately.

We have formed several general conclusions on the basis of those meetings which all MPs should be aware of. We found that —

- All members expressed disquiet at the level of family violence being experienced by children
- Very few members stated that they support the *status quo*
- A significant number indicated that they personally supported repeal
- Most were looking to the Select Committee to help them find a comprehensive and satisfactory solution
- Many were concerned about the risk of an increase in prosecutions of parents for minor assaults on children — the light smack.

In summary, we have been struck by the overwhelming recognition of the need for change.

Why change is needed

Members of the Justice and Electoral Committee were unanimous in their view that change was necessary although they differed in what exactly that change should be.

The National Party members expressed the minority view thus —

"In the best interests of children, the New Zealand National members of the committee believe it is imperative to lower the usage of section 59 of the Crimes act 1961 as it is being used as a shield to conviction by some parents and guardians who have obviously abused their children.

Some high-profile cases involving severe beatings with implements are seen as obvious examples of child abuse, yet no convictions have resulted when the accused have successfully used the 'reasonable correction' justification offered by section 59 in jury trials." (p.9 Committee Report)

Other reasons for change noted by the select committee included —

- physical discipline is ineffective;
- there is a link between physical discipline and some forms of child abuse;

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- S.59 provides children with less protection against assault than that provided adults;
- physical discipline is linked to longer term psychological and developmental problems;
- change would send a powerful anti-violence message to society and encourage social change.

What about the polls?

But don't the polls show the majority of public opinion favours retention of Section 59 unaltered? Should politicians take note of such polls?

It is quite true that a number of polls taken over the years have shown that a significant percentage of the population support the rights of the parent to use physical punishment in guiding their child.

The most quoted of such polls, that taken by the Department of Justice in 2004, was a telephone survey of 1000 New Zealanders over the age of 18 years.

It explored attitudes to levels of physical punishment and whether the law should allow parents to discipline children with physical force.

Unsurprisingly, it found that 80 percent thought the law should allow the use of force.

The full survey report noted a number of limitations in the survey.

In particular, it was a survey of general attitudes rather than of

parental use of physical punishment in guiding their child.

The report also notes that it did not explore the attitudes of children themselves.

For the report, go to: (<http://www.justice.govt.nz/pubs/reports/2001/children/index.html>).

Polls that explore parental practice produce strikingly different results.

Thus a poll taken by the Littlies Lobby in 2005 explored parental practice in guiding their child's behaviour. In that survey, 71 percent of a larger respondent group found that smacking was the least effective method of managing a child's behaviour (<http://www.littlieslobby.org.nz/resources/>).

The importance of the second reading

Given there is a recognition among most MPs that there needs to be change, it is critical that the Bill passes its Second Reading.

It is only by passing the Second Reading that the merits of the various amendment options can be given detailed consideration and debate during the following Committee of the Whole stage of the Bill's passage.

Defeat at the Second Reading means there is no further opportunity to consider any possible amendments.

If the bill is defeated at the Second

What the Select Committee proposes

The Crimes (Substituted Section 59) Amendment Bill proposed by the Select Committee maintains a statutory defence for the parental use of force. It excludes its use for the purpose of punishment.

Instead it allows its use in situations where reasonable force is used to restrain a child in situations of danger, such as

- running onto a road,
- removing a disruptive child from the scene of disruption,
- preventing a child from committing a crime, and
- for purposes of normal care such as changing a struggling child's nappies or carrying them to bed against their will.

The nature of the force used in such circumstances has to be reasonable in the circumstances.

Reading New Zealand will be left with the *status quo* – an extremely disappointing outcome from a very thorough consultation in which there was a great deal of support for change.

For any of the the various change options to be fully considered and voted on, a majority of MPs must support the Crimes (Substituted Section 59) Amendment Bill at the second reading.