REPEAL OF S59 OF THE CRIMES ACT 1961 – A CHILD ADVOCATE'S PERSPECTIVE

Presentation by Ian Hassall to the UNICEF NZ Repeal S59 Forum, Wellington, 30 November, 2005.

There are many arguments against hitting children and they each have evidence to support them.

- It is painful and dangerous to the child
- It prevents the construction of a taboo whose existence is the surest way of reducing interpersonal violence of all kinds.
- It teaches not only that interpersonal violence is legitimate but that it is a legitimate expression of love in a context of one person overpowering another
- It is an infringement of children's right to have personal integrity and to live free from the threat of pain, humiliation and injury
- It is a denial of children's equal citizenship and humanity in fact and in law.
- It is not the best way to teach children to behave well
- It trains children to be either servile or rebellious

I could expand on each of these reasons and the ample research that backs them up.

They all are useful but there is one that is more persuasive for me and, I believe, for many of those we hope to influence. It cannot be subjected to the kind of cause and effect research that supports the others because it is essentially a values judgement. The argument is simply that hitting children is wrong.

This argument can be supported by personal reflection, observation of people's behaviour and motivation and by analogy with other situations in which someone hits someone else.

It feels wrong and when we reflect, we know in our hearts it is wrong. What ordinary parent can recall the look of fear when they raised their arm to strike and the expressions of pain that followed, without feeling deep remorse. We may justify such an act to ourselves with the support of custom or religion but we know it was wrong.

Even worse, if as parents we have become inured to the fear and pain we cause by hitting our children, what have we become? And if our children over the years become used to us hitting them and regard it as normal, what have they become?

Look at how quickly majority support for hitting children has collapsed in those countries which have banned it. Does this not mean that most parents relied on the justifications of custom and law to support a habit they knew in their hearts to be wrong?

We are not brutes. We do love our children. Against our better judgement we have fallen into the habit, generation by generation, of hitting our children. We have been taught by some of our religious leaders that for the sake of our children's moral well-being we must physically overpower and subdue them. This view has been supported by the clause in our statute we are discussing today, Section 59 of the Crimes Act,

which says literally that we are justified in using reasonable force by way of correction! What self-serving hypocrisy!

The image these words create is of a reasonable parent calmly administering a measured dose of pain in order to correct a child's behaviour. Has anyone ever seen that? And if you had wouldn't it send chills up your spine

These wretched words and this wretched clause are a flimsy disguise for lost control, the desire for control, the need to dominate and simple ill-temper. Why else would using physical force on children be so frequently associated with using physical force on an adult intimate partner? Why else would there be such an association between marital disharmony and use of physical force against children?

It has been proposed by some of our law-makers that we should retain these words and this clause and go on to define what is reasonable or unreasonable force. They propose a law which says we may hit here but not there. We may hit this hard but no harder. This simply maintains the adult pretence of reasonableness and from a child's perspective misses the point entirely. We still have the words, justified and reasonable and correction with which adults excuse themselves for losing their tempers with their children, or worse, coldly and deliberately inflicting pain on them, albeit in the prescribed dose and on the prescribed part of the anatomy. Examination of this kind of proposal that is anything more than superficial finds it to be essentially absurd.

We do not want amendment. We cannot abide this attempt by politicians to court popularity at the expense of children's well-being. We can not be satisfied with anything less than full repeal.

Seen in its proper context, repeal of S59 is not a means of trying to coerce parents into better behaviour but of relieving them and their children of a burdensome expectation that has been placed upon them by custom and law.

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