Children – political footballs

Submitted to the NZ Herald, 31/5/06, for consideration for Perspectives pages

A prominent rugby player punches a man and is hit by his team-mate with a handbag. There is a fuss. A parent hits a child and there is no fuss. It's legitimate. Who was hurt more? Who was more in need of correction? Who was less able to defend himself? Will either victim learn anything from it? Is the fact that in each case the assailant may have been angry or drunk a good excuse?

Both are technically assaults. Neither will be prosecuted by the police. For one thing, the assault on the child took place in private and the child is not in a position to bring a prosecution. For another, a majority of the New Zealand public and almost certainly the Police and the Courts acting on their behalf would consider assaults at this level not to warrant prosecution in either case.

The man who was hit by the rugby player says he doesn't want to see him lose his contract or punished severely but he goes on to say, 'You can't just go around hitting people, for sure.' And that is the main reason for repealing s59 of the Crimes Act. It is the only piece of New Zealand law which says you **can** just go around hitting people, as long as those people are your children.

Of course, repeal won't stop people from hitting children, just as the assault law doesn't stop rugby players and bar patrons from hitting one another, but it will stop assaults on children from being legitimate.

The case of Tana Umaga and Chris Masoe undermines Dave Crampton's argument against repeal of s59 (Herald, 30/5) which is that it is illogical to have a law if the Police will be expected to exercise discretion in prosecuting it. That is already the case in the law relating to assault. Thousands of assaults take place on rugby fields, in bars and elsewhere. They are not prosecuted because the Police exercise their discretion. This is not taken as a license to assault but as a realistic and commonsense approach to prevailing conditions in New Zealand.

On the other hand, s59 **is** a license to assault. There has been much hand-wringing over what is and what is not child abuse. Like many arguments over definition it is rather futile. Many New Zealand parents smack their children and whether or not this causes them detectable harm is arguable. But, it is a matter of record that most injuries to children to the point of homicide began as an intention to inflict punishment that was considered by the perpetrator to be legitimate until it escalated into something else.

It is also a matter of record that New Zealand has a high rate of child homicide inflicted by caregivers. Surely the removal of the sense of legitimacy, even righteousness with which some people begin to punish their children, usually in anger, will help to make children safer.

Adults are safer because of the prevailing belief that in most circumstances assault upon them is not justifiable. Why should children not receive at least the same level of

protection from assault as the law provides other people? The repeal of s59 is not a new law. It is not a law at all but the unmaking of an old law that licenses assaults on children.

A programme to inform people of the true implications of repeal of s59 is needed once it has been discarded. For most people the implications will be zero. Some will need to reconsider their attitudes and behaviour toward their children. That is all to the good if we are to change our shameful record of ill-treatment of children.

END

Ian Hassall is a Senior Researcher at the Institute of Public Policy at AUT and a former Commissioner for Children.