

A submission to Parliament's Justice and
Electoral Select Committee

on the

**Crimes (Abolition of Force as a
Justification for Child Discipline)
Amendment Bill**

from the

*Royal NZ Plunket Society Inc.
PO Box 5474
Wellington*



Contact:
Paul Baigent, CEO
Tel: 04 471-0177

Contents

- 1.0 Submission summary and recommendations**
- 2.0 Introduction and background**
 - 2.1 Plunket’s support for repeal of section 59
- 3.0 Reasons for repealing section 59**
 - 3.1 Reducing the harms to children and addressing child abuse
 - 3.2 Sending consistent messages to achieve social change
 - 3.3 Supporting parents to utilise positive parenting strategies
 - 3.4 What children think of physical punishment
 - 3.5 Complying with international law
 - 3.6 Protecting children’s rights
- 4.0 Section 59 in practice – now and following repeal**
 - 4.1 Prosecuting parents
 - 4.2 Restraint for the purposes of safety
 - 4.3 Amending section 59 to define “reasonableness”
- 5.0 Conclusion**
- 6.0 Appendix One – Keeping up with international developments**
 - Germany
 - Norway
 - Sweden

Submission Summary

1. Plunket has been working for many years to promote alternatives to physical punishment and enable parents to use more effective, positive, parenting strategies to support the optimal development of their children.
2. Successive governments have also invested in a range of programmes to reduce family violence and promote positive parenting. However, by providing a legal defence to parents or caregivers charged with assaulting their child, section 59 of the Crimes Act effectively approves of physical punishment and thereby increases the likelihood of its use.
3. Physical punishment is a demonstrated risk factor in child abuse and a variety of other negative outcomes. New Zealand compares extremely poorly with its OECD counterparts for child death by maltreatment rates.
4. Plunket considers the repeal of section 59 to be an important next step in addressing the nation's culture of violence. Legislative change combined with comprehensive positive parenting education and clear communication about the purpose of repeal will support normative change and a shift away from a reliance on physical punishment.
5. In achieving the necessary change, it is imperative that parents receive consistent messages that violence is not appropriate or necessary in parenting. Clarifying the law and making it consistent with efforts to reduce violence against children will support parents to use positive parenting techniques. This enhances the prospects for optimal child development and will help break inter-generational cycles of violence.
6. Children, and an increasing number of parents, perceive physical punishment to be negative and ineffective in teaching children to behave well. This view is supported by international evidence.
7. In addition to endorsing ineffective and dangerous punishment practices, section 59 discriminates against children and is inconsistent with international law such as the UN Convention on the Rights of Child.
8. International experience illustrates that legislative change and public education can significantly reduce the use and acceptability of physical punishments, thereby improving the safety of children and reducing child abuse rates.
9. The Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill should therefore be supported.

Plunket recommends that:

- A.** The Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill be passed into law by the New Zealand Parliament in order to repeal section 59 of the Crimes Act 1961.
- B.** Section 59 be repealed without amendments that define reasonable force.
- C.** Repeal of section 59 be accompanied by public education about the law change and the value of positive parenting.
- D.** The intent of the law change be made clear, possibly by including a statement of principle in the Act referring to the effectiveness of non-violent parenting techniques and confirming the need for children to be brought up without exposure to physical or emotional harm. This approach was used in the Education Act when corporal punishment in schools was outlawed.
- E.** The SKIP programme, PEPE, Tots and Toddlers, and other initiatives designed to equip parents with the knowledge to employ positive parenting strategies continue to receive government support.
- F.** Basic parenting education and information about child and human development be taught in secondary schools as a compulsory, core component of the curriculum.
- G.** The Select Committee note official advice provided to Cabinet confirming that parents are unlikely to be unnecessarily criminalised following repeal of section 59:

“There are significant safeguards in the justice system to minimise the risk of parents being prosecuted for trivial offences and it is not feasible or necessary to develop a specific mechanism to manage this risk.”¹

And, that amending (as opposed to repealing) section 59 could be seen as supporting physical punishment:

“Amending section 59 carries risks. It could signal that New Zealand was supporting or legitimising physical discipline.”²

¹ Cabinet Paper presented to the Cabinet Policy Committee, *Section 59 of the Crimes Act 1961: Legislative Options*, (POL (03) 39), Wellington, 17 March 2003, p 10

² Cabinet paper presented to the Cabinet Social Equity Committee, *Section 59 of the Crimes Act 1961: Implications of Repeal or Amendment*, (SEQ (01) 118), 26 October 2001, p 5

2.0 Introduction and background

10. Plunket supports the full repeal of section 59 of the Crimes Act 1961 and we wish to appear before the Select Committee to present an oral submission.
11. This submission is presented by Kaye Crowther, NZ President of Plunket, and Paul Baigent, Chief Executive Officer of Plunket, on behalf of the Royal New Zealand Plunket Society Inc.
12. In 2005, at its national volunteer conference, the Plunket Society confirmed its support for the immediate repeal of section 59. Plunket calls for repeal to be supported by comprehensive positive parenting education programmes, on the basis of international evidence demonstrating:
 1. The harm to children caused by physical punishment;³
 2. The vastly increased likelihood of child abuse in homes where physical punishment is used;⁴
 3. The need for governments to convey consistent messages about the unacceptability of physical punishment;⁵ and
 4. That physical punishment is less effective than positive parenting strategies for disciplining children.⁶

Our submission addresses each of these points.

In addition, we discuss:

- Children's views of physical punishment;
- New Zealand's obligations under international law;
- Children's human rights;
- Section 59 in practice and some of the concerns raised by proponents of physical punishment about repeal; and
- International examples of countries where the defence for assaulting children has been repealed.

13. Plunket considers that the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill presents an opportunity for Members of Parliament in all parties to work together to repeal section 59 and to take a stand in support of the interests of children and against child abuse.

³ Joan Durrant, PhD, University of Manitoba, Canada, *International Perspectives on Discipline*, presentation to the Littlies Lobby, Wellington, June 2004

⁴ Joan Durrant, *Physical Punishment and Physical Abuse*, published in Children, a newsletter from the Office of the Children's Commissioner, Wellington, June 2004, No. 50, p 5

⁵ Nicola Taylor, *Physical Punishment of children: international legal developments*, published in New Zealand Family Law Journal, March 2005, 5(1), p 3

⁶ Children's Issues Centre (University of Otago) and Office of the Children's Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, Dunedin, June 2004, p 14

14. Addressing the culture of violence against children requires bold political leadership, strong partnerships between government and the community sector, and the appropriate resourcing of programmes and policies. Repealing section 59 is an important step towards achieving social and cultural change.
15. Plunket notes that successive governments have pursued programmes and policies aimed at reducing family violence and promoting positive parenting strategies in preference to hitting children. However, without the political leadership required to remove the statutory defence provided by section 59 this investment falls far short of its potential for positive returns for this and future generations.
16. Plunket's work in the community has given us a first-hand view of the environments and consequences of violence, highlighting the enormous benefit of providing reliable information and supportive education to enable parents to do their best for their children. Our focus is on keeping children well and preventing negative outcomes, thereby reducing the likelihood that interventions will be required in the future.
17. We also note research showing an increase in parental/ societal understanding that positive parenting works better than physical discipline,⁷ and consider that the general public is likely to be receptive to, and understand the importance of, repealing section 59 if this change is well communicated and is supported by a public education campaign.

2.1 Plunket's support for repeal of section 59

18. Founded in 1907, Plunket is New Zealand's leading provider of well child health care and family support. The essence of our work with families is the education, support and equipping of parents to achieve optimal outcomes for children. This makes a direct contribution to the wellbeing and resilience of New Zealanders.
19. Plunket as an organisation draws on the evidence demonstrating the influence of childhood experiences in shaping the child's future. A child's experiences in their first three years of life shape the brain's pathways, establishing the foundations for socio-emotional characteristics (e.g. the ability to cope, learn and relate well), and physical health.⁸
20. Our 800 clinical staff, (Plunket Nurses, Kaiawhina and Community Karitane) has contact with 92 percent of the nation's new babies and

⁷ The Littles Lobby research project, *What do parents think?* found that 71 percent of respondents considered smacking to be the least effective way to guide children to behave well. Wellington, July 2005

⁸ For examples of this information, see www.brainwave.org.nz/

their families. Plunket's ability to work with families in their homes demonstrates the significant level of trust in our staff and organisation.

21. This close work with families gives Plunket Nurses a unique understanding of the challenges faced by parents and of the factors contributing to New Zealand's very high level of violence towards children.
22. Plunket is community owned and driven. The organisation comprises 122 branches throughout the country, run by volunteers who are Plunket members. They are active in their communities, providing significant support to our clinical staff; playing an important role in creating opportunities for parents to support each other; and developing new services in communities. Their work complements our provision of well child health assessments with services such as the Car Seat Rental Scheme, play groups, child advocacy, and formal parenting education programmes.
23. Our volunteers and members represent middle New Zealand. They are the people who shape Plunket policy, including positions on issues such as the repeal of section 59.
24. This support for the full repeal of section 59 of the Crimes Act 1961 has developed over a period of years.
25. For decades, Plunket has promoted conscious parenting and positive parenting choices. We have been advocating for a reduction in child abuse, raising awareness about the harms associated with family violence, and working with successive governments to advance policies and programmes that improve the safety of children.
26. Our support for repeal of section 59 has developed gradually as our staff and volunteers have come to understand the significance of legislative change as a step towards addressing this nation's culture of violence against children.
27. The development of this position is, perhaps, reflective of the change in attitude, understanding and behaviour that must also take place in the wider public. Such change is possible if the government and parliament actively communicate the reasons for change and the importance of positive parenting.
28. Examples of Plunket's advocacy for social change related to reducing violence include:
29. In 1997, Plunket's national conference brought a remit to the floor calling for the mandatory reporting of child abuse. Our keynote speaker was Deborah Daro, then Director of the US National Committee to Prevent Child Abuse.

30. In 1999/2000, then Plunket President Pam Murray called for the reduction of child abuse.
31. In 2000, Plunket's *Thriving Under Five*, a primary source of information for parents, strengthened its message to parents about the need to avoid physical punishment.
32. Current Plunket President Kaye Crowther, has consistently called for political and community action to reduce violence against children, ensure the availability of parenting education and to repeal section 59 of the Crimes Act.
33. In 2001, the Plunket board advocated for legislative change to the Crimes Act. At that time, Plunket had a Child Protection Policy which had been in place for many years and it was working to implement a new Family Violence policy. This process highlighted a wide variance of experiences and opinions within Plunket. It resulted in the Family Violence policy being implemented in a way that was supportive and sensitive to the needs of our staff and volunteers, and provided opportunities for education within the organisation about the issues around family violence.
34. At the 2003 Plunket national conference, a remit was presented in support of the repeal of section 59. That remit called for the government to work towards the repeal of section 59 but called for the introduction of parenting education courses as a step towards eventual repeal. The debate at our conference, and in the news media, illustrated the need for people to understand that there are effective ways to discipline children that do not require violence and that physical punishment has a negative impact on children.
35. At that conference, Plunket launched a new national parenting education programme, PEPE. In addition to equipping parents through the sharing of information and experiences, PEPE provides an opportunity for parents to reflect on how they were parented and to identify their own positive and negative experiences and how these influence their approach to parenting. The course advocates for conscious and positive parenting.
36. In 2004, Plunket hosted Dr Joan Durrant from the University of Manitoba at a Littlies Lobby⁹ event in Parliament Buildings to speak on the harms associated with physical punishment. The Littlies Lobby also commissioned research into parents' views on the discipline of children.

⁹ The Littlies Lobby is a joint initiative of Plunket and the Children's Commissioner, which includes a parliamentarians' group interested in promoting the wellbeing of children.

37. At the 2005 Plunket national conference, the remit calling for the repeal of section 59 was again presented. This time, it was passed virtually unopposed and it called for the immediate repeal of section 59 of the Crimes Act supported by comprehensive positive parenting education programmes.
38. This position was very much informed by the growing body of international evidence demonstrating the harms caused by physical punishment and an awareness that physical punishment is unnecessary. It was also inspired by a sense that the levels of violence against children are intolerable and that there is an urgent need to change this nation's culture of violence.
39. Along with the development of our own policies and participation in debate about the issues, Plunket's relationship with the Ministry of Social Development and our delivery of SKIP programmes, has also helped convince people within Plunket about the effectiveness of positive parenting.
40. SKIP has given us resources to take the positive parenting message throughout the organisation and out to clients. Plunket has six SKIP champions within the organisation. They work with a strengths-based, solution focused approach to share information about positive parenting.
41. While repealing section 59 will not introduce a specific prohibition, or a "ban on smacking" as has been pursued in other countries, it would still send an unambiguous message that physical punishment in the home was not necessary, expected or appropriate. It would therefore have a positive impact on changing the culture of violence against children.
42. Plunket's support for repeal of section 59 has evolved over time and in a similar way we believe that public education about positive parenting and the necessity of repealing section 59 will have a vital role in ensuring public acceptance of this legislative change.

3.0 Reasons for repealing section 59

3.1 Reducing the harms to children and addressing child abuse

43. New Zealand is among the top three OECD countries for child death by maltreatment¹⁰ and homicide is the third leading cause of death for those aged 0-14 years old, following drowning and motor vehicle deaths.¹¹ The majority of these homicides are perpetrated by parents or caregivers.¹²

44. New Zealand's high rates of child abuse and deaths are linked to the use of physical punishment. In turn, the use of physical punishment is linked to the law.

“Laws that provide a legal defence to parents or caregivers charged with assaulting their child effectively approve of physical punishment and this contributes to the physical abuse of children.”¹³

“Societal messages that convey the appropriateness of physical punishment increase the likelihood of its use, and thereby, set the stage for physical abuse.”¹⁴

45. Notably the majority of countries without a legal defence such as section 59, where public education campaigns have been implemented and a prohibition placed on the use of corporal punishment in the home, have significantly lower rates of child death by maltreatment than New Zealand does.¹⁵ (see Appendix One)

46. This is due to the fact that in homes where physical punishment is the norm, the risk of serious physical assault on a child is much higher and there is a built-in risk of escalation when physical punishment is regularly used.¹⁶

47. Child abuse deaths tend to stem from a set of dynamics involving frustration with the child, anger, and a belief that physical force can stop unwanted behaviour.¹⁷ To prevent such deaths and reduce the

¹⁰ UNICEF Innocenti Research Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, Issue 5, Italy, September 2003, pg 4

¹¹ Children's Issues Centre and Office of the Children's Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, p 4

¹² Mike Doolan, *Child Death by Homicide: An examination of incidence in New Zealand 1991-2000*, *Te Awatea Review*, August 2004, p 7

¹³ Joan Durrant, *International Perspectives on Discipline*, p 4

¹⁴ Joan Durrant, *Physical Punishment and Physical Abuse*, p 5

¹⁵ UNICEF Innocenti Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, p 4

¹⁶ Children's Issues Centre (University of Otago) and Office of the Children's Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, Dunedin, June 2004, p 14 and Vasta, R. cited by Joan Durrant, *Physical Punishment and Physical Abuse*, p 5

¹⁷ Joan Durrant and Staffan Janson, *Law Reform, Corporal Punishment and Child Abuse: The case of Sweden, Canada*, October 2004, p 21

use of violence against children, we must reach a point where parents do not rely on physical punishment as the preferred means of guiding a child's behaviour.

48. While researchers attempt to distinguish between physical punishment and abuse, this is very hard to do and there is no general agreement about the dividing line between physical punishment and physical abuse. The main difference between abusive and non abusive parents is how often and how severely they physically punish their child.¹⁸ And in many cases of child abuse, parents or caregivers were attempting to discipline the child.

49. Dame Sylvia Cartwright has said:

*“We must ask ourselves whether the right to smack children is so precious a right, so necessary to parenting, that we are willing to sacrifice the James Whakarurus, the Lillybings and the many, many children who are assaulted in the name, or using the excuse of, discipline and survive.”*¹⁹

50. While some people argue that they should be able to use physical punishment because “it didn't do me any harm”, physical punishment is a risk factor for child abuse and a variety of other negative outcomes:

*“There is overwhelming consistency in the findings of studies indicating that long-term, parental use of physical punishment is associated with negative outcomes for children.”*²⁰

51. The negative outcomes associated with physical punishment include:

- Decreased moral internalisation (lessons are not learned)
- Reduced problem solving skills
- Reduced quality of child/ parent relationships
- Increased child aggression
- Decreased child mental health
- Increased chances of child abuse
- Increased delinquent and anti-social behaviour in childhood and adulthood,
- Increased chances of the child going on to abuse their own partner or child,²¹ and

¹⁸ Ibid. p 11

¹⁹ Dame Sylvia Cartwright, Governor General, speech to the opening of the Save the Children Annual General Meeting, 16 June 2002.

²⁰ Children's Issues Centre (University of Otago) and Office of the Children's Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, Dunedin, June 2004, p 15

²¹ Ibid. pp16-17

- Impaired marital relationship/ partnerships in adulthood.²²
52. Physical punishment also undermines longer term parenting goals such as teaching our children to solve problems without using violence, to be communicative and respectful, to be confident and to trust us as parents.
 53. Currently, there is very little community awareness about the harms associated with physical punishment. This information needs to be more widely available as part of information that equips parents to use alternatives to violence.
 54. It is also important to note that the social approval of physical punishment raises the threshold for violence in the next generation.²³ Therefore, breaking the cycle of violence from one generation to the next requires a shift in social norms to remove any sense that violence is acceptable in parenting.

“It has been demonstrated that abusive parents are more likely to have received physical punishment as children than are non-abusive parents.”²⁴

55. Repealing section 59 of the Crimes Act will help break this cycle by sending consistent messages about the inappropriateness of physical punishment.

3.2 Sending consistent messages to achieve social change

56. The Children’s Commissioner reports that in recent years there has been no improvement in the rate of child abuse and neglect, or of child deaths from intentional injury. In the five years to 2000, 49 children under 15 years died as a result of intentional injury.²⁵ Ensuring consistent messages are conveyed about the inappropriateness of violence is likely to improve these statistics.
57. While repealing section 59 will not explicitly prohibit physical punishment it will help clarify the law to make it consistent with government efforts to reduce violence.
58. Currently, the government is promoting non-violent, positive parenting techniques through programmes such as Strategies with Kids – Information for Parents (SKIP), Parents as First Teachers (PAFT), and Hippy. In addition, Te Rito: the New Zealand Family

²² Alicia D. Cast, David Schweingruber (Iowa State University) and Nancy Berns (Drake University), *Childhood Physical Punishment and Problem Solving in Marriage*, Journal of Interpersonal Violence, Volume 21 Number 2, February 2006, Sage Publications

²³ Joan Durrant, *International Perspectives on Discipline*, p 4

²⁴ Ibid. p 5

²⁵ Children’s Commissioner, *Briefing to the Incoming Minister*, Wellington, November 2005, p 5

Violence Prevention Strategy includes the objective of maintaining action to promote positive non-violent parenting, including providing information about alternatives to smacking.²⁶

59. However, promoting non-violence while the law continues to provide a defence for it is not a situation unique to the current government.
60. Successive governments have invested in a variety of programmes to reduce family violence. In 1998, for example, the National-led government launched the '*Alternatives to Smacking*' campaign to raise awareness of non-physical methods of discipline. Evaluations showed the campaign had a positive effect on people's perception of the alternatives to physical discipline and demonstrated that they actually work.²⁷
61. International experience (see Appendix One) shows that public attitudes about the usefulness and necessity of physical punishment can change when the law is consistent with other government programmes to reduce violence and promote alternatives to hitting.
62. As such, it is imperative that section 59 is repealed, not just amended in an attempt to define what might be considered to be acceptable levels of violence against children.
63. Repeal would remove the confusion that currently exists around section 59. It would help clarify the legal situation, and send a strong message in support of positive, non-violent parenting strategies. It should be seen as an opportunity to support parents with clear information.
64. Along with repeal, it is important that the intent of the law change be made clear in public education campaigns and possibly also by including a statement of principle in the Act referring to the effectiveness of non-violent parenting techniques and confirming the need for children to be brought up without exposure to physical or emotional harm. This approach has been used in Germany (see Appendix One), and as previously mentioned it was also used when corporal punishment in schools was outlawed in New Zealand.

3.3 Supporting parents to utilise positive parenting strategies

65. Repeal of section 59 is about discouraging the use of physical punishment but it is not anti-discipline or unsupportive of parents.
66. Discipline is about guiding a child's development and behaviour. It involves talking about, explaining and demonstrating the behaviour

²⁶ Ministry of Social Development: <http://www.msd.govt.nz/publications/te-rito/action13.html>

²⁷ Cabinet paper, *Physical Discipline of Children: Public Education and Legislative Issues*, (POL (02) 187), p 7

we wish to see from our children so they can eventually take responsibility for their own behaviour. In contrast, punishing children is about reprimanding them for misbehaviour and communicates displeasure with their actions. Using violence to punish a child has the opposite effect of consistent positive discipline.

67. Repeal would enable the government and parliamentarians to promote positive parenting and better support parents to employ non-violent discipline techniques. These techniques are in the best interests of children and adults because they promote optimal child development and a non-violent society.
68. Physical punishment is increasingly regarded as a detrimental model for conflict resolution. It contributes to violent and criminal behaviour in adulthood, poor conflict resolution skills in marriage²⁸, as well as to a general community tolerance for violence against children.²⁹
69. Further, physical punishment has been consistently demonstrated to be the least effective strategy for guiding children to behave well.
70. A review of international research concludes that there is very little support for the view that physical punishment ‘works’ to achieve immediate compliance.³⁰
71. Using violence to punish a child has the opposite effect of consistent, positive discipline and can result in even worse behaviour. In studies that observe children’s behaviour at different points of time, higher rates of misbehaviour occurred two and four years later for children who were smacked versus those who experienced little or no corporal punishment.³¹

“Most research shows that hitting children increases the likelihood of disruptive behaviour.”³²

72. Research commissioned by the Littlies Lobby demonstrates that attitudes about the effectiveness of hitting and other physical punishments are beginning to change.
73. The Littlies Lobby research, conducted by UMR Insight, showed that 71 percent of parents surveyed thought smacking was the least

²⁸ Alicia D. Cast, David Schweingruber (Iowa State University) and Nancy Berns (Drake University), *Childhood Physical Punishment and Problem Solving in Marriage*, Journal of Interpersonal Violence, Volume 21 Number 2, February 2006

²⁹ Nicola Taylor, *Physical Punishment of children: international legal developments*, p 3

³⁰ Children’s Issues Centre and Office of the Children’s Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, p 14

³¹ Ibid. p 15

³² Ibid. p 4

effective way to guide children to behave well.³³ 96 percent of parents said “praising and encouraging good behaviour” was the most effective. This was closely followed by “leading by example.” Other effective strategies that rated higher than physical punishment were giving small rewards for tasks well done; talking to them about what is right and wrong; taking time out; and taking away privileges.

74. These findings are supported by other researchers:

*“Many parents are not particularly happy with the effectiveness of physical punishment or with the distress it causes, and say that they used it because they did not know what else to do.”*³⁴

75. Repealing section 59 would enable the government to build on the growing awareness amongst parents that there are alternatives to physical punishment and that these alternatives are more effective than hitting children.

76. The government’s own consultation has shown that people are interested in hearing about alternatives to physical punishment, and Maori and Pacific people have also noted the importance of anger management in the context of parenting, along with the need to provide people with the tools to parent without physical force.³⁵

77. Plunket has been involved in the design and delivery of positive parenting information since the mid 1990s. The SKIP programme is building on these and other efforts to promote positive parenting and it is making a useful contribution to public understanding about strategies for guiding children. Informal feedback through our networks indicates that its messages are accessible and useful. As such, we support the continuation of SKIP, and other programmes such as Plunket’s PEPE and Tots and Toddlers programmes which enable parents to employ positive parenting techniques.

78. We also believe that the provision of basic parenting education, including information about child and human development, should form a compulsory part of the core curriculum of secondary schools. This information would help ensure that people had realistic expectations of children and would provide basic knowledge to equip them for the most important job in the world: parenting.

79. The provision of ante- and post-natal care, along with universal well child health services, are also vital if parents are to feel well

³³ The mail survey, conducted in April 2005, was of 1367 readers of the magazine Tots to Teens who were parents or primary caregivers of children under five years.

³⁴ Children’s Issues Centre and Office of the Children’s Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, p 9

³⁵ Cabinet Paper, *Physical Discipline of Children: Public Education and Legislative Issues*, (POL (02) 187), p 5

supported in the task of guiding their children's growth and development. It is often said that "it takes a village to raise a child" and the services provided by Plunket are one of New Zealand's best examples of this.

3.4 What children think of physical punishment

80. Where the views of children and young people have been sought in relation to violence and physical punishment, some consistent themes emerge. They indicate that New Zealand children's safety is compromised by physical punishment and that they view the use of violence as negative.
81. In the consultation exercise for the government's *Agenda for Children*, getting "smacked, hit or the bash" was identified by Maori and Pacific children as one of their top ten concerns.³⁶
82. Young people and policy makers attending the '*Children Call for an Aotearoa New Zealand fit for us*' symposium in February 2004 identified child abuse, bullying and physical punishment as key safety issues in New Zealand.
83. In 2005, research commissioned by Save the Children surveyed eighty children aged between 5 and 14 years old, and found that only four of those children had never experienced physical punishment.³⁷
84. The research found many children reported experiences of physical punishment that can be described as harsh and/or dangerous. Some reported being hit around the head or with implements. Many children said physical punishment was the first line of discipline used by parents, rather than a last resort.
85. The children participating in that survey also said the following:
 - Parental disciplinary messages were not understood
 - Discipline was delivered inconsistently and without implicit instruction to children
 - Physical discipline is a negative and ineffective experience that causes resentment and fear
 - More effective discipline was time out, removing privileges or being grounded, and
 - Parents should stop being angry and communicate about what the child had done wrong and what the rules are.
86. Other studies where children's views have been sought have found:
 - Smacking is hitting

³⁶ Cabinet paper, *Section 59 of the Crimes Act 1961: Implications of Repeal or Amendment*, (SEQ (01) 118), p 2

³⁷ Terry Dobbs, *Insights: Children and Young People Speak out about Family Discipline*, as quoted at http://www.savethechildren.org.nz/new_zealand/newsroom/insights.mainpage.html

- Children feel hurt physically and mentally when they are smacked
- Some are hit on their heads
- Only a minority are smacked in situations when they are facing immediate or potential danger
- Smacking can interrupt children’s behaviour, but has many other negative associated effects – children say they did not like their parents any more, they felt angry, grumpy, unloved and sad after being smacked, and for many smacking made them more naughty.³⁸

3.5 Complying with international law

87. The preamble to the United Nations Convention on the Rights of the Child (UNCROC) recognises the “inherent dignity and equal and inalienable rights of all members of the human family” and confirms that children require “special safeguards and care, including appropriate legal protection” because of their physical and mental immaturity.

88. Article 19 of UNCROC states that children have a human right to protection from all forms of violence and abuse. It calls on signatory states to take:

“... all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse ... while in the care of parents, legal guardians or any other person who has the care of the child.”

89. This has been interpreted by United Nations committees as banning physical punishment in schools and other institutions, and in the home.³⁹

90. As such, New Zealand’s retention of the statutory defence provided by section 59 has attracted criticism from relevant United Nations committees, including the Committee on the Rights of the Child and the Committee against Torture.

91. In 2003, the United Nations Committee on the Rights of the Child said:

“The Committee is deeply concerned that despite a review of legislation, the State party has still not amended section 59 of the Crimes Act 1961, which allows parents to use reasonable force to discipline their children. While welcoming the

³⁸ Children’s Issues Centre and Office of the Children’s Commissioner, *The Discipline and Guidance of Children: A Summary of Research*, p 24

³⁹ Nicola Taylor, *Physical Punishment of children: international legal developments*, p4

Government's public education campaign to promote positive, non-violent forms of discipline within the home, the Committee emphasizes that the Convention requires the protection of children from all forms of violence, which includes corporal punishment in the family, and which should be accompanied by awareness-raising campaigns on the law and on children's right to protection."⁴⁰

92. New Zealand's failure to comply with UNCROC on the matter of section 59 is evidence of a less than wholehearted commitment to the human rights of children. This country is now decades behind many of the states that have banned the use of physical punishment in the home and have started to make significant progress on reducing violence against children. (see Appendix One)
93. In 2004, the UN Committee against Torture recommended that New Zealand prohibit the use of physical punishment in the home. This was the first time that committee had made such a recommendation to a State Party.⁴¹ However, a variety of other human rights committees have condemned corporal punishment in the home, including those monitoring the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Political Rights.⁴²
94. Another international development of note is the United Nations Secretary General's Study on Violence to Children. This has seen regional consultation meetings held across the world over the last six months, which have consistently resulted in recommendations to prohibit corporal punishment.⁴³

3.6 Protecting children's human rights

95. Internationally, the physical punishment of children has increasingly come to be viewed as a violation of children's fundamental rights.
96. As it stands, section 59 provides protection to adults when they assault a child but does nothing to protect children. Indeed, children are the only group in our society against whom the law condones the use of violence. Repealing section 59 would help ensure that children are provided with the same legal protection as adults (and pets) in relation to physical assault.
97. In addition to recommendations from international human rights committees, the *2005 New Zealand Plan of Action on Human Rights* identified repeal of section 59 as important.⁴⁴

⁴⁰ Ministry of Youth Development website: www.myd.govt.nz/uploads/docs/1.5.3closing-obs-2003.pdf

⁴¹ Nicola Taylor, *Physical Punishment of children: international legal developments*, p 4

⁴² *Ibid.* p 4

⁴³ See UNICEF website for media statements: www.unicef.org/media/media_27277.html

⁴⁴ Human Rights Commission, <http://www.hrc.co.nz/report/actionplan/2children.html>

98. The 2004 report of the Human Rights Commission, *Human Rights in New Zealand Today* said, “Children and young people are most at risk from human rights abuses in New Zealand.”⁴⁵ The issues of particular concern are the poverty and abuse experienced by children and this includes the violence associated with punishment.

99. Repealing section 59 would serve as a statement of renewed commitment by New Zealand to recognising children’s rights, including their rights to physical integrity and security as required by the UNCROC, and to reducing the incidence of violence against them.

100. There is no good reason to discriminate against children by providing protection under the law to those who assault them. Children are our most vulnerable citizens, with an important role in the development of New Zealand’s society and economy. They deserve to have their rights to protection upheld in New Zealand law with the repeal of section 59.

101. The Children’s Commissioner reports that:

*“Meeting children’s civil and political rights means children are treated with dignity and respect and learn to treat others in the same way. It does not require other sectors in society to forgo their rights. Meeting children’s economic, social and cultural rights may require their needs to be prioritised over the needs of others. However, the impact of children failing to reach their full potential is to the detriment of everyone in society.”*⁴⁶

4.0 Section 59 in practice – now and following repeal

4.1 Inconsistent application

102. Section 59 provides a legal defence to parents charged with assaulting their children:

“Every parent or person in place of a parent of a child is justified in using force by way of correction towards a child if that force is reasonable in the circumstances.”

103. In addition to contributing to a culture of violence against children and discriminating against them, a further concern is the way in which section 59 has been applied inconsistently with juries having acquitted defendants even if evidence shows that excessive force has been used.

⁴⁵ Rosslyn Noonan, Chief Human Rights Commissioner, media statement Wellington, 1 September 2004.

⁴⁶ Children’s Commissioner, *Briefing to the Incoming Minister*, p 7

104. Section 59 has been used to acquit parents who have hit their child with implements such as a hosepipe, bamboo and a piece of wood.
105. The view of government officials is that the reasonableness of the force used depends on the facts of each case and essentially involves the application of a community standard – that is, what would be “reasonable” to most New Zealanders.⁴⁷
106. However, the acquittal of parents who have used excessive force illustrates the subjective nature of what may be deemed to be reasonable making any attempt to define reasonableness is therefore highly problematic.
107. One person’s tolerance of violence and their perception of what is reasonable in the circumstances is unlikely to be the same as the next person.
108. Plunket is concerned by the cases in which defendants who have obviously used excessive force have been acquitted as these cases may signal an increase in the levels of violence against children that are considered acceptable by some members of the public, as represented on juries.
109. Plunket considers that the level of violence tolerated by our society is influenced by a variety of factors, including personal experience of physical punishment, the law, the media, and by societal norms. These factors, and therefore our tolerance of violence against children, can change with appropriate legal frameworks, education provided through social marketing, and with bold political and community leadership.
110. In countries where the legal defence for assault on children has been repealed, and that change has been accompanied by public education campaigns, public attitudes about physical punishment and the incidence of violence has changed for the better (see Appendix One).
111. It is time for New Zealand to strive for similar change, in the interests of developing resilient, empathic children and reducing the appalling rates of violence against children in evidence in this country.

4.2 Prosecuting parents

112. In practice, the defence provided by section 59 is available in a small number of cases and where those cases are investigated they do not necessarily result in prosecution.

⁴⁷ Ibid. p 3

113. Official advice to Cabinet states:

“There are only a small number of cases annually (estimated at less than 1% of cases in the criminal jurisdiction) in which section 59 may be available as a defence.”⁴⁸

“While it is appropriate for Police to investigate cases of alleged assault, not all such cases will require in-depth investigation, prosecution or action. Although there are issues around the ways in which reasonable force may be interpreted, this is not a concept unique to section 59.”⁴⁹

“While Police will investigate all cases of alleged assault, not all such cases require prosecution or other action. Police will usually only take relatively serious cases to court.”⁵⁰

“In the vast majority of cases where parental assaults against their children become known to the Police or the Department of Child, Youth and Family Services, action other than prosecution is taken.”⁵¹

114. Officials have also advised Cabinet that it is not at all certain that repeal of section 59 would result in an increase in prosecutions of parents/ caregivers for the use of force against their children and that police practice is the variable that will impact on prosecution numbers:

“The extent of any such increase will depend on police practice. The prosecution of parents/ caregivers would continue to be largely a matter for Police discretion (there is a significant amount of discretion in Police prosecution practice for all offences)”⁵²

115. Plunket recognises that investigating cases of parental assault against children is difficult and we support the continuing use of police discretion in deciding whether to pursue such cases. As one of the purposes of repealing section 59 is to bring consistency to policy and law, and stop the discrimination against children, assault

⁴⁸ Cabinet Paper presented to the Cabinet Policy Committee, *Section 59 of the Crimes Act 1961: Legislative Options*, POL (03) 30, Wellington, 28 February 2003, p 2

⁴⁹ Ministers of Justice and Police, *Supplementary Paper – Section 59 of the Crimes Act 1961: Implications of Repeal or Amendment*, Cabinet Paper (CAB (01) 645), 2 November 2001, p 1

⁵⁰ Cabinet Paper, *Section 59 of the Crimes Act 1961: Legislative Options*, (POL (03) 30), p 8

⁵¹ Cabinet Paper presented to the Cabinet Policy Committee, *Physical Discipline of Children: Public Education and Legislative Issues*, (POL (02) 187), Wellington, 18 November 2002, p 8

⁵² Cabinet Paper, *Section 59 of the Crimes Act 1961: Legislative Options*, (POL (03) 30), 28 February 2003, p 7

cases should be treated consistently and with the same urgency regardless of the age of the victim.

116. We acknowledge that Police use discretion when enforcing all laws and we consider it is unlikely they will pursue any vexatious cases that arise following the repeal of section 59. Police are likely to only take an interest in cases where physical punishment has clearly gone too far and we are confident that existing safeguards would prevent the unnecessary criminalisation of parents.

*“Prosecutions of one-off trivial offences are unlikely.”*⁵³

“There are significant safeguards in the justice system to minimise the risk of parents being prosecuted for trivial offences and it is not feasible or necessary to develop a specific mechanism to manage this risk. Current safeguards include:

- *The range of options other than formal prosecutions available to Police, including warnings and cautions. It is probable that complaints involving very minor assaults, particularly for parents/caregivers who had not come to Police attention before, would be dealt with through these options.*
- *The Solicitor-General’s Prosecution Guidelines, under which a prosecution should only proceed where there is sufficient evidence and it is in the public interest. These guidelines, coupled with prosecutorial independence in relation to such decisions, suggest that prosecution of a parent/caregiver for a trivial offence is unlikely.*
- *The possible availability of common law defences.”*⁵⁴

117. While this information will provide comfort to parents and proponents of physical punishment, Plunket considers that a clear message will need to be conveyed that the goal of legislative reform of section 59, and any accompanying public education campaign, is to reduce parents’ reliance on physical punishment. We believe the Police will need to take seriously any allegations of assault and be seen to pursue them with the same determination as given allegations of assault against adults even if the outcome is that charges are not brought.

⁵³ Cabinet Paper, *Physical Discipline of Children: Public Education and Legislative Issues*, (POL (02) 187), p 9

⁵⁴ Cabinet Paper presented to the Cabinet Policy Committee, *Section 59 of the Crimes Act 1961: Legislative Options*, (POL (03) 39), Wellington, 17 March 2003, p 10

4.3 Restraint for the purposes of safety

118. A further concern expressed by proponents of physical punishment is that repeal of section 59 would mean parents were unable to restrain a child to keep them safe. Again, this assertion has been addressed by officials, who conclude:

*“Where restraint or control rather than correction is used to protect the health and safety of a child, a defence of necessity or good motive would be available.”*⁵⁵

4.4 Amending section 59 to define “reasonableness”

118. Plunket considers that any attempt to define what reasonable force is, is inappropriate and unacceptable. We consider that Parliament should not be prescribing in law the extent to which parents can inflict violence on their child.

119. Furthermore, amendment of section 59 would perpetuate the inconsistency caused by having a law that supports physical punishment when government programmes are endeavouring to reduce reliance on violence. Advice to Cabinet states:

*“Amending section 59 carries risks. It could signal that New Zealand was supporting or legitimising physical discipline.”*⁵⁶

120. In addition to these risks, there is a danger that by specifying criteria of what is acceptable, the legislation will reflect community values at a particular point in time and may become outdated.⁵⁷

121. We do not support amendment of section 59. Section 59 should be fully repealed, immediately.

5.0 Conclusion

122. Given New Zealand’s appalling child abuse and death by maltreatment rates, parliamentarians should be prepared to take bold steps in the effort to achieve social change that improves the status of children, including the immediate repeal of section 59.

⁵⁵ Ministers of Justice and Police, *Supplementary Paper – Section 59 of the Crimes Act 1961: Implications of Repeal or Amendment*, Cabinet Paper (CAB (01) 645), 2 November 2001, p 2

⁵⁶ Cabinet paper presented to the Cabinet Social Equity Committee, *Section 59 of the Crimes Act 1961: Implications of Repeal or Amendment*, (SEQ (01) 118), Wellington, 26 October 2001, p 5

⁵⁷ Cabinet Paper, *Section 59 of the Crimes Act 1961: Legislative Options* (POL (03) 30), p 6

123. The link between hitting (or other forms of physical punishment), and child abuse, cannot be ignored. We ask Select Committee members to remain mindful of this link in their deliberations on the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill.
124. Repealing section 59 and supporting the law change with comprehensive positive parenting education and clear communication about this change will make a significant contribution to increasing public understanding that physical punishment is not necessary in parenting. In turn, this will help reduce child abuse.
125. Plunket considers that any attempt to define what reasonable force is, is inappropriate and unacceptable. We consider that Parliament should not be prescribing in law the extent to which parents can inflict violence on their child.
126. As the leading provider of well child health care and parenting support, Plunket would anticipate taking an active role in publicly supporting this law change, and helping to ensure wide public understanding of the implications of this change.
127. Physical punishment harms children and precludes them from reaching their full potential. Section 59 conveys a message that this violence is okay. It is time to bring the law into line with government initiatives aimed at reducing violence, and for New Zealand to comply with international law such as UNCROC.
128. Plunket believes that New Zealand children's health and development will be significantly improved, over time, with a shift away from physical punishment.
129. The case for repeal is strong and there is ample international evidence that this legislative change, well communicated and supported by a public education campaign, would contribute to social change.
130. Plunket urges the Select Committee to support the passage into law of the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill. We do not support any attempt at amending section 59 to define "reasonable" force.
131. Please see page four of this submission for the full list of our recommendations.

6.0 APPENDIX ONE - Keeping up with international developments

132. Fifteen states have now repealed their defence equivalents to section 59 or introduced in law a specific prohibition on physical punishment:

- Sweden (1979)
- Finland (1983)
- Norway (1987)
- Austria (1989)
- Cyprus (1994)
- Denmark (1997)
- Latvia (1998)
- Croatia (1999)
- Bulgaria (2000)
- Germany (2000)
- Israel (2000)
- Iceland (2003)
- Romania (2004)
- Ukraine (2004)
- Hungary (2005)

133. In addition, in both Italy and Portugal the Supreme Courts have ruled that physical punishment is unlawful and legislative reviews are now underway. In Belgium, the constitution has been amended to explicitly refer to children's rights and consideration is being given to enshrining these protections in law.⁵⁸

134. Below are four examples of states where the legal defence equivalent to section 59 has been, or is in the process of being, removed: Germany, Norway, Sweden and Italy.

Germany

135. In 2000, Germany introduced an explicit ban on physical punishment in the home by introducing a new clause to the country's civil code. The law was placed in the civil code to overcome the fear that parents may be criminalised.

It reads:

*“Children have a right to be brought up without the use of force. Physical punishment, the causing of psychological harm and other degrading measures are forbidden.”*⁵⁹

⁵⁸ End All Corporal Punishment, <http://www.endcorporalpunishment.org/pages/frame.html>

⁵⁹ Nicola Taylor, *Physical Punishment of children: international legal developments*, p 6

136. Research in Germany had established a clear link between childhood experiences of physical punishment and the likelihood that those young people would turn to violence and other forms of anti-social behaviour in the future. One of the motivating factors for implementing the ban on physical punishment was concern that youth crime was high in Germany, and a ban on physical punishment was seen as an important element of the attempt to turn the tide in the long term.⁶⁰
137. The law change was supported by a comprehensive public education campaign. Local authorities are tasked with promoting ways in which families can resolve conflict without resort to force.
138. Central government is collaborating with non-governmental organisations to run a campaign aimed at supporting parents in the raising of their children and this includes prominent people working as ambassadors for non-violent child rearing.
139. In a demonstration of the potential of such campaigns to change public attitudes, research has shown that Germans who are familiar with the law passed in 2000 are less likely to see the use of violence against children as ‘justified.’⁶¹
140. Germany has a child death rate of 0.6 per 100,000 children. New Zealand’s rate is 1.2 per 100,000 children.⁶²

Norway

141. Norway’s Criminal Code on assault, dating from 1891, stated that parents and caregivers had the right to use moderate corporal punishment as part of the upbringing of children, until the provision was removed in 1972.
142. However, it was not until 1987 that the Parent and Child Act was amended to prohibit physical punishment.

The Act reads:

“Children shall not be exposed to physical violence or to treatment which can threaten his physical or mental health.”

143. The law doesn’t carry any sanctions but works to effect social change.⁶³ The Minister of Justice has said that making corporal

⁶⁰ End All Corporal Punishment, <http://www.endcorporalpunishment.org/pages/frame.html>

⁶¹ Joan Durrant, *Legal Reform and Attitudes Towards Physical Punishment in Sweden*, p 23, published in *International Journal of Children’s Rights*, (2003) 11, pp 147-173.

⁶² UNICEF Innocenti Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, p 6

⁶³ Nicola Taylor, *Physical Punishment of children: international legal developments*, p 5

punishment clearly illegal in the Parent and Child Act would inform the general public.⁶⁴

144. Norway has the fifth lowest rate of child death by maltreatment in the OECD, at 0.3 per 100,000.⁶⁵

Sweden

145. Over a period of fifty years (1928-1983), Sweden has abolished all forms of corporal punishment. Its rejection of corporal punishment is now explicitly stated in law.⁶⁶

146. In 1928, Sweden abolished corporal punishment in schools. The penal code retained a defence for parents and other caregivers who used physical punishment as a means of correcting children's behaviour.

147. In 1949, a new civil code governing family law was established, called the Parents' Code. It allowed for mild forms of corporal punishment.

148. In 1957, the defence used by parents facing criminal charges of assault against their child was removed from the Swedish penal code.

149. In 1966, the Parents' Code was changed to ensure it was consistent with the law.

150. In 1979, Sweden became the first nation to explicitly abolish corporal punishment in all settings, including the home. This followed some high profile child abuse cases and a Commission on Children's Rights.

151. A statement was included in the civil code, reading:

"The child may not be subjected to physical punishment or any other injurious or humiliating treatment."

152. The corporal punishment ban was one component of a set of laws, policies and programmes aimed at recognising the rights and entitlements of children.⁶⁷

153. Like other states that have followed Sweden's lead, a primary goal of the ban was to inform public attitudes about corporal punishment and clearly state that corporal punishment is injurious to children.

⁶⁴ End All Corporal Punishment, <http://www.endcorporalpunishment.org/pages/frame.html>

⁶⁵ UNICEF Innocenti Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, p 6

⁶⁶ Joan Durrant, *A Generation Without Smacking: The impact of Sweden's ban on physical punishment*, quoted in *The Physical Chastisement of Children: Lessons from Sweden and Germany*, The Scottish Parliament Information Centre, 13 September 2002

⁶⁷ Joan Durrant, *Legal Reform and Attitudes Towards Physical Punishment in Sweden*, p 3, published in *International Journal of Children's Rights*, (2003) 11, pp 147-173.

154. Importantly, most Swedes considered that the law would be helpful in the reduction of the incidence of physical punishment by sending an unambiguous message, despite lacking formal penalties.⁶⁸

155. The law change was supported by a public education campaign and both were designed to educate parents and caregivers, not to criminalise them. The new law did not create a new crime in the penal code – it simply ensured that the existing law on assault applied to children and adults equally.⁶⁹

156. The Swedish experience shows two important developments. Firstly, attitudes about the need to use physical punishment have changed. In 1965, 8 years after the criminal defence was removed from the Swedish Penal Code, 53 percent believed that corporal punishment was necessary.

157. Following legislative change and public education, by 1994, only 11 percent of Swedes were positively inclined toward even mild forms of corporal punishment⁷⁰ and the generation raised without physical punishment is particularly opposed to it. This demonstrates the link between one's experience of violence and later tolerance of it. Secondly, the use of physical punishment has declined dramatically from the 1950s through until the 1980s. The prevalence, frequency and harshness of physical punishment have declined dramatically in Sweden over two generations.⁷¹ Deaths due specifically to child physical abuse are almost non-existent in Sweden.⁷²

158. Sweden's rate of child death by maltreatment is significantly lower than New Zealand's, at 0.5 per 100,000.⁷³ This is down from 1.0 per 100,000 in the 1970s.⁷⁴

Italy

159. In 1995, a Magistrate's court found a father guilty of 'abusing the means of correction'. In November of that year, the Milan Court of Appeal heard the case and found him guilty of 'ill-treatment'. By 1996 the case was in Italy's Supreme Court, where the father's lawyers argued that he should not have been convicted of either offence.

⁶⁸ Ibid. p 19

⁶⁹ Ibid. p 6

⁷⁰ Joan Durrant, *Law Reform and Corporal Punishment in Sweden*, Canada 2005, p 5

⁷¹ Joan Durrant and Staffan Janson, *Law Reform, Corporal Punishment and Child Abuse: the case of Sweden*, p 16

⁷² Ibid. p 25

⁷³ UNICEF Innocenti Research Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, pg 4

⁷⁴ Ibid. p 9

160. The beatings had been administered, they argued, without any intention of ill-treatment or causing physical or mental damage; the father had been merely exercising his right and duty to correct his daughter's behaviour.
161. Delivering the Supreme Court's ruling, Judge Francesco Ippolito wrote an opinion which has since become a landmark judgement in Italian law. Rejecting the lawyers' arguments, Ippolito upheld the man's conviction for ill-treatment of his daughter under Article 572 of the Italian Penal Code.
162. The wider significance of the ruling lay not in the confirmation of the ill-treatment charge but in the dismissal of the earlier conviction for 'abuse of the means of correction'. According to the opinion, the relevant article of the opinion could only be triggered when a *legitimate means of correction* was used abusively. Physical punishment regardless of how it is used, Judge Ippolito ruled, could not be considered a legitimate means of correction.
163. Italy has not yet formally joined the group of nations that have introduced new legislation specifically outlawing the use of physical punishment. But in practice Italy's lower courts rarely stray from the decisions of the Supreme Court Justices. And in practice, Judge Ippolito's ruling is now regarded as the law of the land.
164. The Judge also referred to a Supreme Court decision of the 1950s barring husbands from 'correcting' their wives by physical or any other means.
165. Judge Ippolito has predicted that the judgement will 'filter into society' to create an atmosphere in which the physical punishment of children will no longer be regarded as socially acceptable.
166. Italy's rates of child death by maltreatment are very low at 0.2 per 100,000. This has declined from 0.4 per 100,000 in the 1970s.⁷⁵

⁷⁵ UNICEF Innocenti Research Centre, *A League Table of Child Maltreatment Deaths in Rich Nations*, pp 4, 9, 30