

Newman Weekly

By Dr. Muriel Newman
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The New Zealand Centre for Political Debate

Parents Under Attack

In two week's time Parliament will again consider the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill, a bill that seeks to remove section 59 of the Crimes Act.

The 1961 Crimes Act was very clear in its intent to protect children from abuse: section 194 states that anyone assaulting a child is liable for up to 2 years in prison and section 195 imposes a prison term of up to 5 years for anyone found guilty of cruelty to a child.

Section 59 was introduced into the Act in order to protect parents who were disciplining their children from the charge of assault. It states that every parent or guardian of a child is justified in using force by way of correction towards the child, if the force used is reasonable in the circumstances.

The legal definition of assault means the act of applying, attempting to apply, or threatening to apply force, either directly or indirectly, by action or gesture, in such a way that it causes the other person to believe - on reasonable grounds - that the force will be applied. In other words, if section 59 is removed, it is not just an act of force that can lead to a charge of assault, but a verbal threat or gesture as well.

The Police advice to the Select Committee stated: "If section 59 was to be repealed in its entirety, parents would not be authorised to use reasonable force by way of correction and smacking a child in such circumstances would be assault".

They went on to explain that in all cases of suspected/reported assaults on children, the Police would be required to investigate. They would refer such cases to Police Child Abuse Investigators - in conjunction with Child Youth and Family - where and when possible. It would be their job to determine whether it is in the best interest of the child/family and the public to bring a prosecution.

In other words, claims that this bill would not criminalise parents for smacking a child are wrong. Any case of alleged violence against a child would have to be investigated by the Police, with the decision of whether

or not to prosecute the parents being based on the evidence and the public interest (to read the Police advice see www.nzcpd.com).

One would think that any campaign to remove section 59 must be based on its excessive use as a defence by parents who abuse their children. That does not appear to be the case. While the exact details of the number of times section 59 has been used as a defence is difficult to find - according to the Minister of Justice, "The Justice database does not record the type of defence used, and as such, we are unable to identify when a Section 59 defence was used" - it appears to have been used in only a handful of cases over the last decade.

That is why the claims being made to justify the bill by its author, the Green MP Sue Bradford, sound disingenuous. In her speech to Parliament she stated: "All the research I've ever seen shows that children who are beaten and assaulted have much poorer outcomes as adults, and are much more likely to perpetuate cycles of violence and deprivation".

Yet section 59 is not being used to protect parents who beat and assault their children - those parents come under the auspices of section 194 of the Crimes Act. Oddly enough, however, of the 50,000 cases of potential child abuse referred to the Department of Child, Youth and Family for further investigation each year, only a very small number of perpetrators are ever charged. This means that the authorities are failing to enforce the law and bring the real perpetrators of child abuse in this country to justice.

So, if section 59 is not being used to shield violent and abusive parents from the force of the law, what is this anti-smacking bill all about?

In her speech to Parliament, Sue Bradford explained: "When Pakeha colonists first arrived here, they brought a culture that taught that children, along with women and servants, were the property of their father, husband, or employer, and that they were mere chattels to be brought into line by force. Section 59 is the

last legal vestige of that culture". In other words, she is using her bill as a political device to progress the Green Party's anti-family agenda. That is why, if any amendment to better define acceptable force succeed, she has stated that the bill will be withdrawn.

Socialists have long regarded the traditional "patriarchal family" as an instrument of oppression against women. It is an on-going ideological battle. In a submission to a Parliamentary Select Committee on Women's Rights in 1974, the Socialist Action League presented a policy programme to remove discrimination against women. A key provision was the nationalisation of child-rearing: "The rearing, social welfare and education of children should become the responsibility of society, rather than the individual parents, upon whose limited resources all the burdens presently fall. All laws enforcing individual ownership of children should be abolished (to view an extract of the submission see www.nzcpd.com).

With the removal of section 59 being yet another attack on parents and the traditional family unit, it is alarming to see that so many Members of Parliament - including the whole of the Labour Party - supporting this agenda. It is especially bizarre given that child abuse is much more likely to occur in broken homes than in intact families and anyone genuinely concerned about reducing child abuse in this country should be supporting measures to strengthen families not weaken them (to read my submission to the Select Committee with a plan to reduce child abuse see www.nzcpd.com).

When Sue Bradford's Private Member's Bill was originally drawn back in 2005, the Labour Party

was more circumspect about its support. It recognised the overwhelming public opposition to the bill and agreed to support it only as far as a select committee. It was then intended to allow Labour MPs to use a conscience vote. That was, however, when Labour commanded a majority in the House that did not have to rely on the support of the Green Party. Now that the Greens hold the balance of power, Labour has decided against conscience votes.

The majority of New Zealanders know that this bill is unnecessary. They recognise that families, who raise their children in traditional ways teaching them values and showing them boundaries, are doing a good job. They also know that the last thing these parents need is the state intruding right into the heart of their family, claiming to know better than they how to raise their children.

If you feel concerned about this bill being passed into law, then I urge you to speak out. Contact your Member of Parliament and share your views. The addresses of each MP can be found on the MPs page of the NZCPD website.

Finally, Melanie Phillips looked at this issue a few years ago, when the House of Lords decided to amend their law by better defining a smack. It is well worth reading and is featured as this week's NZCPD guest commentary. View her article on www.nzcpd.com.

The poll this week asks whether you believe that the removal of section 59 will reduce child abuse in New Zealand?

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