



24 February 2006

S06.02

**Submission to the Justice & Electoral Select Committee on the Crimes  
(Abolition of Force as a Justification for Child Discipline) Amendment Bill**

**Introduction**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 38 nationally organised societies. It has 32 branches throughout the country attended by representatives of those societies and some 150 other societies. It also has individual members. The work of the Council is to serve women, families and the community through research, study, discussion and action, at local and national levels.

This submission has been prepared using existing policy plus comments made by members of the Family Affairs Standing Committee and the wider membership.

**General Comments**

The main purpose of this Bill lies in Clause 4, which is the one this submission will address. It is noted that Section 59 of the Crimes Act 1961, as it stands now, says, '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'.

NCWNZ is philosophically opposed to all forms of violence, but particularly that towards women and children. Resolution 12.7.2.4, passed at the 1997 National Executive states:

"That NCWNZ seek the repeal of Section 59 of the Crimes Act 1961 which allows parents to use 'reasonable' force in disciplining their children."

While this was passed by a majority, the vote was by no means overwhelmingly in favour.

That division is still reflected in the responses received from the membership and noted under specific comments below.

While NCWNZ agrees with the theory behind the proposed alteration, members pointed out that violence towards children is not only physical but can also be emotional and psychological. This proposed change to the Act appears to only address physical violence.

**Specific Comments**

NCWNZ noted that the law, through the courts, has punishments for persons who abuse children, but it is perceived that very rarely is the punishment handed down from the bench at the top end of what is available to use in the best interest of the child.

Thus, in the opinion of some members, it was felt that the proposed repeal would be unlikely to change the behaviour of those for whom it was intended. Likewise for those parents who already act responsibly towards their children the repeal will be irrelevant.





Members saw violence as a learned behaviour. There was some concern that parents administering physical discipline while telling their children that they loved them were sending a mixed message; that children could grow up seeing violence as an expression of love. It was suggested, therefore, that this proposed change could teach children that there were methods to solving conflict other than by using violence.

NCWNZ, while supporting the proposed change, would also encourage more education being given to parents and caregivers, especially to new New Zealanders whose cultural methods may be different from those acceptable in New Zealand. More parenting programmes in local communities (funded by Government), and parenting programmes introduced within each high school, college, and educational organisation were other suggestions made.

Some members noted that this proposed change would give children the same protection as that currently given to animals and adults.

Now, as in 1997, a division of opinion centred around the definitions of 'justifiable' and 'reasonable'. While NCWNZ still supports this proposed change some members also acknowledge that in some circumstances a one off spank on the hand, leg or buttocks can have an immediate effect of preventing what could turn into a dangerous situation.

Opinion was canvassed on the moot that reasonable force could be defined as not striking above the neck, or alternatively, striking in such a manner as to not leave a mark on the body. Members were asked whether defining reasonable force in such a manner would give adequate protection for children. Respondents felt that limiting what area of a child's body can be hit would defeat the purpose of the proposed change and made no sense at all.

### **Conclusion**

NCWNZ supports the repeal of Section 59 of this Act, but seeks assurances that processes will be put in place to help parents with their parenting before the proposed change is finalised. Members see this proposed change as a step towards ensuring the next generation of New Zealanders will be living in a less violent community.

Thank you for the opportunity to comment on this proposed change in legislation.

Christine Low  
**National President**

Belinda Greenwood  
**Convener, Family Affairs Standing Committee**



**Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill  
Oral submission to Justice and Electoral Select Committee**

**When:** Thursday 22 June 2006, 11.30 appointment, heard at 11.50 am

**Attendees:** Bery Anderson and Helen Bruce

**Members of the committee:** Lynne Pillay (Chairperson), Ann Hartley, Sue Bradfordm Nicky Wagner, and Chester Burrows.

**Script for initial comments**

No force is just or reasonable. As we say in our written submission, NCWNZ Members saw violence as learned behaviour. There is a dichotomy that allows us to treat our children cruelly.

This Bill signals a move to change New Zealander's attitudes and belief systems to one where violence is not acceptable. The repeal of section 59 sets a standard of non-violence, and is one of the tools for breaking the cycle of violence. Its Repeal must be accompanied by ongoing parent education and support to encourage use of positive alternatives to physical punishment.

The intent of the repeal of the section is to remove a legal defence for adults who physically assault children in their care. Some members noted that this proposed change would give children the same protection that is currently given to animals and adults.

Removing the defence of reasonable force does not mean banning smacking. There is no such defence available to a person charged with a similar assault of an adult. That doesn't mean the police lay charges every time one adult pushes another. New Zealand should not support the use of the reasonable force defence with respect to children.

Implementing this Bill will mean that our legislation will no longer be in breach of Article 19 of United Nations Convention on the Rights of the Child (UNCROC), that states:

“That parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or any other person who has care of the child.”

Violence is never an acceptable answer to any issue least of all to disciplining our children.

**Questions**

About five questions were asked, the main ones being:

Sue Bradford asked about defining reasonable force in the legislation, to which the reply was that there is no adequate definition of reasonable force, and also that there was not unanimity in NCWNZ on this topic.

Chester Burrows asked a convoluted question about Judges determining whether S59 should apply, or having some equivalent section in legislation where it was a misdemeanour rather than a criminal offence. To this, Beryl replied that there was no similar offence for adults and that children needed the same protection – while the statement remains in any form there is not sufficient protection for our children.

Had this hand **for reference**, and used the italicised piece twice to answer questions: EPOCH New Zealand *does not support any form of statutory protection for parents that implies that physical discipline is reasonable or justifiable*. This does not mean we want to see parents prosecuted for minor assaults – rather we want them supported and given information.