



New Zealand Nurses Organisation

Submission to the Justice and Electoral Select Committee

on the

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

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1. EXECUTIVE SUMMARY

- 1.1. The New Zealand Nurses Organisation (NZNO) supports activities that build societal commitments for child safety and protection.
- 1.2. NZNO supports the Crimes (Abolition of Forces as a Justification for Child Discipline) Amendment Bill, specifically that Section 59 of the principal Act is repealed.
- 1.3. NZNO would like to take this opportunity to discuss the reasons for supporting the amendment. In particular, the repeal of Section 59 will:
 - mean that New Zealand will be meeting our International obligations,
 - focus on the rights of the child to be protected from any form of abuse as espoused by the International Council of Nurses,
 - acknowledge the clear evidence that physical punishment is a predictor of a wide range of negative developmental outcomes,
 - as with the worldwide shift, send clear messages that children have rights to physical integrity and dignity and that these rights, guaranteed under the UN Convention on the Rights of the Child, can no longer be violated in the name of discipline, and
 - enable Maori to challenge assumptions concerning discipline through Maori initiatives.

2. RECOMMENDATIONS

- 2.1. The New Zealand Nurses Organisation recommends that the Justice and Electoral Select Committee:
 - support the Crimes (Abolition of Forces as a Justification for Child Discipline) Amendment Bill, specifically that Section 59 of the principal Act is repealed,

- **note** that minor tweaking or amendments to Section 59 would provide opportunities for parents (or guardians) to justify and rationalise physical punishment, which is in our view child abuse,
- **note** that a complete repeal of Section 59 of the Crimes Act will mean that New Zealand will be meeting our international obligations under the United Nations Convention on the Rights of the Child,
- **note** that health professionals, particularly nurses and midwives are ideally placed to offer early identification and intervention for potential victims of child abuse and are acutely aware of the effects of child abuse,
- **note** that NZNO supports the position on the rights of the child espoused by the International Council of Nurses and therefore supports legislative amendments focused on the rights of the child to be protected from any form of abuse,
- **note** that evidence is clear that physical punishment is a predictor of a wide range of negative developmental outcomes,
- **note** that such research findings have contributed to a worldwide shift in the definition of physical punishment, from an act of discipline to an act of violence. Sweden, the world leader in this shift, removed the criminal defence to corrective force from the Penal Code in 1957. With that change, physical punishment became an act of assault. In 1979, Sweden added a new law to the Civil Code that affirmed children's rights to protection from all forms of physical punishment,
- **note** that violence is hidden and due to societal views and norms accepts practices that are not protective or respectful of children,
- **note** that violence destroys children's self-confidence and can undermine their ability to be good parents in the future, supported by international studies,

- **note** that it is time for New Zealand to make a stand and through the repeal of Section 59 of the Crimes Act, acknowledge that children have rights to physical integrity and dignity and that these rights can no longer be violated in the name of discipline,
- **note** that the past experiences of Maori society deemed physical punishment as unnecessary, however present realities may be linked to racism, fear by Maori to conform to social norms and stereotypes, however research suggests that Maori do not consider physical discipline as acceptable compared with NZ European,
- **note** that Maori today need to challenge assumptions concerning discipline through Māori initiatives, “if Māori continue to take on the dominant ideological and hegemonic influences of wider society, such as the negative social constructions of Maori and violence, it makes it difficult to envisage a move away from physical disciplinary measures to non violent means”¹,
- **note** that NZNO has read and supports the submission made by Plunket, and
- **note** that the New Zealand Nurses Organisation requests the opportunity to make an oral submission to the Committee.

3. ABOUT THE NEW ZEALAND NURSES ORGANISATION

- 3.1. The New Zealand Nurses Organisation (NZNO) is a Te Tiriti o Waitangi based organisation which represents 39,000 health workers on a range of employment related and professional issues across the public, private and community sectors. The majority of our members are registered, enrolled and student nurses, and midwives.
- 3.2. The New Zealand Nurses Organisation Mission Statement in relation to Family Violence is:

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Rickard, S (1998), *Koi Patu Koi Mamae; disciplining Maori children* IN Social Work Now (11) December 1998: 4-9

Nurses and Midwives are proactive in identification of family violence and introducing appropriate interventions, to support and assist the victims of family violence to reduce family violence and neglect.

3.3. To achieve this, NZNO, amongst other things:

- recognises that family violence affects the health of individuals families, communities and society,
- recognises Te Tiriti o Waitangi as the founding document of New Zealand and is committed to the articles and implementation of the principles of Te Tiriti o Waitangi,
- supports the International Council of Nurses' anti-violence campaign,
- supports the research body of knowledge showing that an effective and appropriate response to family violence includes routine screening as the first intervention, and
- encourages nurses and midwives to undertake health promotion activities which will encourage the elimination of family violence. The framework for this health promotion is the Ottawa Charter (1986), and activities can take place in schools, community settings, or within population groups.

3.4. Health professionals, particularly nurses and midwives are ideally placed to offer early identification and intervention for potential victims of child abuse, including abuse from physical punishment. Guidelines (developed internationally, nationally and locally) recommend that health professionals routinely identify child abuse and neglect and either make referrals to appropriate support services, or make notifications of abuse to the Department of Child, Youth and Family Services. Within this context, the New Zealand Nurses Organisation and its members are acutely aware of the effects of child abuse and wish to express our disapproval of any form of child abuse.

4. INTERNATIONAL COUNCIL OF NURSES POSITION ON THE RIGHTS OF THE CHILD

- 4.1. The New Zealand Nurses Organisation (NZNO) is a member of the International Council of Nurses, and supports its policy statements. The International Council of Nurses (ICN) is a federation of national nurses' associations, representing nurses in more than 128 countries. Operated by nurses for nurses, ICN works to ensure quality nursing care for all, sound health policies globally, the advancement of nursing knowledge, and the presence worldwide of a respected nursing profession and a competent and satisfied nursing workforce.
- 4.2. The ICN endorses the Declaration of the Rights of the Child and the Convention on the Rights of the Child and supports efforts made to promote the principles set forth in the Convention. More specifically, ICN supports²:
 - Protecting children from any form of abuse, sexual exploitation or child labour which damages their health and intellectual, physical, social and psychological development,
 - Promoting family health and welfare so that the family unit is the place where children are wanted, protected and cared for to grow up in health and dignity,
 - Lobbying for equitable distribution of goods and services so that all children have adequate nutrition, housing, education and health care and, promoting equal opportunities for education of female children, orphans and those of minority groups,
 - Fostering the delivery of primary health care services with emphasis on promoting health, prevention of disease and disability, and
 - Enhancing protection and care for children with special needs such as orphans.

² ICN Position Statement, Rights of Children, Adopted in 1979, Revised in 2000 (Source: <http://www.icn.ch/pschildrights00.htm>)

- 4.3. Section 59 of the Crimes Act 1961 is inconsistent with ICN, and as an affiliate member, NZNO policy. Given that the ICN position on the rights of children is based on the UN Convention on the Rights of the Child, this section is also inconsistent with the Convention. Legislation that provides a defence for parents and guardians using force against their children, for the purposes of correction and the force used is reasonable in the circumstances, is counter intuitive to building societal commitments for child safety and protection. In our view this section of the Crimes Act, protects the rights of parents (or guardians) to justify and rationalise child abuse.
- 4.4. NZNO therefore supports legislative amendments focused on the rights of the child to be protected from any form of abuse.

5. THE IMPLICATIONS OF PHYSICAL PUNISHMENT

- 5.1. Aptly summarised by Professor Anne Smith and Joan Durrant in their paper prepared for the 10th Australasian Conference on Child Abuse and Neglect, in February 2006³, “physical punishment has been revealed to be a predictor of a wide range of negative developmental outcomes. It has been consistently associated with aggression and antisocial behaviour, psychological maladjustment, impaired parent-child relationships, and physical injury. Research on children’s perspectives on physical punishment has indicated that it fuels anger and resentment, is felt as rejection, and leads to avoidance of the punitive parent.
- 5.2. Such research findings have contributed to a worldwide shift in the definition of physical punishment, from an act of discipline to an act of violence. Sweden, the world leader in this shift, removed the criminal defence to corrective force from the Penal Code in 1957. With that change, physical punishment became an act of assault. In 1979, Sweden added a new law to the Civil Code that affirmed children’s

³ Smith, A. and Durrant, J: Physical Punishment: The State of Research and the State of Law, presented to the 10th Australasian Conference on Child Abuse and Neglect, 14 – 16 February, 2006, Wellington (Source: <http://www.nzfvc.org.nz/accan/speakers/smith.shtml>)

rights to protection from all forms of physical punishment. Since then, at least 13 countries have passed similar legislation to send a clear message that children have rights to physical integrity and dignity and that these rights, guaranteed under the UN Convention on the Rights of the Child, can no longer be violated in the name of discipline.”

- 5.3. UNICEF⁴ complements this stance noting that violence is hidden, because children may not feel able to report acts of violence for fear of retribution from their abuser. It may be acceptable or seen as a way of justifiable and necessary punishment because violence pervade the societies within which children grow up. They see it in the media. It is part of the economic, cultural and societal norms that make up the child’s environment. It has its roots in issues such as the power relations associated with gender, exclusion, absence of a primary care giver and societal norms that are not protective or respectful of children. Other factors include drugs, alcohol abuse, unemployment, crime, impunity and cultures of silence. The result is that violence can have severe implications for children’s development and in most severe cases, can lead to death or injury.
- 5.4. Violence also destroys children’s self-confidence and can undermine their ability to be good parents in the future. International studies show a dose-response relationship between the severity and frequency of exposure to violence and adverse health outcomes. Further, the Christchurch Health and Development Study reported that physically abused or maltreated children were up to three times more likely than non-abused children to attempt suicide, experience clinical depression and anxiety disorders, and engage in violent behaviour and criminal offending when they were teenagers. They were also more likely to be repeat victims of physical and sexual assault⁵.

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Source: http://www.unicef.org/protection/index_violence.html

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Minister of Health (2005), *Implementing the New Zealand Health Strategy: The Minister of Health's fifth report on progress on the New Zealand Health Strategy, and second report on actions to improve quality*, December 2005, Wellington

5.5. Within this context, it is time for New Zealand to make a stand and through the repeal of Section 59 of the Crimes Act, acknowledge that children have rights to physical integrity and dignity and that these rights can no longer be violated in the name of discipline.”

6. THE IMPLICATIONS FOR MĀORI SOCIETY – PAST, PRESENT, FUTURE

- 6.1. The whanau was the basic unit of Māori society, consisting of at least three generations. Children were nurtured by grandparents or kuia, kaumatua while parents worked. The main function of the whanau was to procreate and nurture children. Physical punishment was deemed unnecessary as the style of life led to a carefree existence. Compared to Europe, Māori domestic life was relatively free of domestic violence, children were not hit and any harm to them was likely to provoke muru. If children had ancestors names and were hit then it was interpreted as if the ancestor was being hit and therefore the mana of the tipuna damaged. Teaching children right from wrong therefore, did not include physical discipline⁶.
- 6.2. There are many reasons why physical punishment has become a reality in Māori society today, linked to racism, fear by Maori to conform to social norms, and stereotypes. However, research suggests that Māori attitude toward physical discipline is different to that of NZ European. This is evidenced by a survey undertaken in 2001 by the Ministry of Justice of 1000 participants (including 100 Maori and 100 Pacific). The report suggests that smacking that left no mark was an acceptable level of punishment in 79% of NZ European and other, compared with 61% of Maori and 51% of Pacific. No ethnic group thought punishment that left a mark or bruise or which required medical attention was appropriate. For under two year olds, 25% of NZ European/other thought it acceptable to physically discipline this aged group compared with 12% of Maori. While there are differences in attitudes between ethnic groups, interestingly the survey found no

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Rickard, S (1998), *Koi Patu Koi Mamae; disciplining Maori children* IN Social Work Now (11) December 1998: 4-9

- difference in attitudes between people with different socio-economic status⁷.
- 6.3. Sharon Richard raises the need for Māori today to challenge assumptions concerning discipline through Māori initiatives, “if Māori continue to take on the dominant ideological and hegemonic influences of wider society, such as the negative social constructions of Maori and violence, it makes it difficult to envisage a move away from physical disciplinary measures to non violent means”⁸.

7. CONCLUSION

- 7.1. The New Zealand Nurses Organisation (NZNO) thanks you for the opportunity to comment on the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill.
- 7.2. NZNO wishes to make an oral submission.
- 7.3. NZNO has read and supports the submission made by the New Zealand Plunket Society.

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NZ Nurses Organisation

⁷ Carswell, S (2001) “Survey on Public Attitudes towards the Physical Discipline of Children”, prepared for the Ministry of Justice, Wellington

⁸ Rickard, S (1998), *Koi Patu Koi Mamae; disciplining Maori children* IN Social Work Now (11) December 1998: 4-9