

Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill - First Reading

Sue Bradford, Green Party Wednesday 27 July 2005

Repeal of Section 59 of the Crimes Act

Madam Speaker, I move that the Crimes (Abolition of Force as a Justification for Child Discipline) Amendment Bill be now read for the first time.

Madam Speaker,

At the appropriate time, I intend to move that this Bill be considered by the Justice and Electoral Select Committee.

The bill I am presenting to the House today is a chance for Aotearoa New Zealand to take a step into the future and rid ourselves of an archaic law which actually legitimises the use of quite serious force against our children.

At the moment we have a situation where judges and juries have it within their power to find parents not guilty of assault when, for example, they beat their children with canes, riding crops, jug cords, hosepipe, belts or pieces of wood.

My bill simply seeks to repeal section 59 of the Crimes Act, nothing more and nothing less.

What section 59 does in law is to allow a defence of 'reasonable force' when a parent is charged with assaulting their child, even when that assault is carried out with objects like these.

What section 59 does in practice is convey the message to all New Zealanders that the state thinks it's legitimate and OK to use so-called 'reasonable force' against those who, at least until they grow up, are smaller, weaker and less mature than us.

What I am not doing is proposing a new law which might, for example, make it a crime to lightly smack a child, or to physically restrain a child when such restraint is manifestly necessary, such as a toddler closing in on a power point with fork in hand.

I am not seeking in any way to criminalise ordinary parents - I just want to remove a legal defence which is used when some people seriously hit or beat their children.

It is a nonsense to say, as so many of my political opponents are doing at the moment, that should repeal of section 59 happen, parents will suddenly be subject to arrest, prosecution and conviction if they lightly smack their child.

There is no way CYFS will abruptly abandon their huge current case load to remove children from parents who smack them as United Future ridiculously alleges, nor will police all at once start arresting parents who put their child in a room for some time out.

It is patently ridiculous to think that all of a sudden, the removal of the defence of 'reasonable force' will lead to police all over the country arresting people for such actions.

The aim of this repeal is not to subject parents to prosecution for trivial assault. In other countries where laws like this have been changed, there has not been a marked increase in such arrests

and I certainly would not expect it to happen here, where the climate of public opinion is so manifestly not ready for a ban on smacking.

One of the best ways of dealing with the fear so many people have about this may be to get the police, in association with bodies like the Children's and Families Commissions, to develop and make public guidelines on prosecutions to cover situations where children are assaulted - full consideration of this option could be part of the select committee process.

This bill is not about imposing penalties on parents who currently use light physical discipline. It is about giving children and young people the same legal protection from physical assault that adults have. I do not understand why it is illegal to beat my spouse, another adult, a policeman or even an animal harshly with a horse whip or piece of wood, but it can be legal to do the same thing to my child.

It seems to me that Section 59 of the Crimes Act is a relic of English 19th century law and thinking which said children were the property of their parents, subject to their total control and harsh physical discipline. At that time the same applied to wives, servants and horses - strangely, it is only children to whom this quaint but dangerous notion still applies.

I believe that babies and children deserve our careful love and respect from the time they are born.

I am a mother of five children myself, including bringing up my first children, twins, on the DPB for their first few years. I know full well how hard being a parent can be. My kids were no angels and one of them had particular problems, as alas so many children do.

However, to the best of my knowledge I have never used hitting or smacking with my children. I am not putting myself forward as some kind of saint here - I am certainly not that; it is simply that I never wanted to strike them in any way, nor found it necessary.

I just feel that as an MP and as a mother, I have a responsibility to do everything I can to stop state legitimisation of the use of serious force against our children.

And while this is a Private Member's Bill about which I am particularly passionate, I would just like to note for the record that it has the full backing of the Green Party. Repealing section 59 is a key plank of our children's' policy, and is also part of our commitment to the kaupapa of non-violence which is one of the Green Party's four corer principles.

I stand in the House today to call on members from all other parties to consider supporting repeal, or at least to vote to allow my Bill to go to Select Committee so that all the myriad issues involved can be opened up to public submission and thorough political consideration.

I am delighted that both the Labour and Progressive parties have publicly committed to supporting the Bill through this first reading. I am also aware that there are other members whose parties officially oppose my bill, but who themselves actually wholeheartedly support repeal.

I call on those members to do the right thing, and take this opportunity to cast a conscience vote tonight and join all of us in Parliament and in the community who believe that repeal is one step that must be taken if we are serious about lowering the levels of violence against children in this country.

I have been speaking and debating this issue in many communities over the last two months and I know full well the depth of feeling there is on all sides of this issue. It's one that cuts deep into the national psyche, and it's a debate that needs to happen. The fact that my bill has been drawn on the even of a general election makes it even clearer that this is a key issue for many.

There are numerous individuals and organisations who support full repeal of section 59 and I would like to acknowledge the presence of some of them here in the House tonight. For some of them, this bill is a further step in a lifelong commitment to reducing levels of violence against children, and I'd particularly like to pay my respects to Beth Wood from the group EPOCH who has worked so hard on this for so many years.

And there are many others too. Some of the people and organisations which support repeal of Section 59 include, to name just a few - Plunket, Barnardos, Save the Children, Parentline, Parents Centre, Unicef NZ, the Families Commissioner and the Children's Commissioner, the AUT Institute of Public Policy, the Law Society, the Association of Psychotherapists, Wesley Community Action, the Sisters of St Joseph of Nazareth, the Association of Counsellors, Pax Christi, the Quakers and all the groups making up the Every Child Counts campaign.

Our country has an all pervasive culture of violence against children which leads to one of the highest abuse and child mortality rates in the developed world.

It is high time we lived up to our commitments as a signatory to the United Nations Convention on the Rights of the Child. We are currently in breach of the Convention despite paying lip service to it because we allow in law state sanctioned force.

I believe that Government has a responsibility to lead the way on this. I welcome the national debate that my bill has opened up about how as a society we regard and treat our children.

And I hope that during the process of submissions on the Bill, we open the way for the voices of children and young people to be heard.

Children don't usually make submissions to Select Committees - on section 59 it's critical that we adults open our ears and minds to what young people have to say about this issue which affects some of them so deeply.

If ever there was a time when parliament should begin to seriously include the views of children in our processes, it is now, with this Bill.

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,

For the sake of all our futures, I call on all MPs here tonight to think seriously about at least allowing this Bill go to Select Committee to consider the possibility that full repeal of section 59 will actually benefit all parents and children rather than creating some of the absurd scenarios currently being put forward in some quarters.