

## **Hitting Children**

### **the fall and fall of corporal punishment in New Zealand**

**1867 Offences Against the Person Act** made provision for the whipping of boys under 16 as a punishment on conviction or certain offences

**1893 Criminal Code Act** confirmed the right of employers to hit their servants and apprentices and increased the number of crimes for which flogging and whipping could be given as a punishment. Under 16s could be whipped with a rod for 30 criminal offences. Over 16s could be flogged with a cat of nine tails.

**1935 Cadogan Report (UK)** urged the repeal of laws allowing the birching of young people, the Committee finding that it was not a suitable or effective method of punishment

**1935 Last judicial flogging in New Zealand**

**1941 Crimes Amendment Act** abolished judicial whipping of boys .

**1948 Corporal punishment as a judicial penalty abolished in the United Kingdom** but continued as a punishment in prisons and approved schools

**1959 United Nations Declaration on the Rights of the Child** stated that children should enjoy special protection including legal safeguards and protection from all forms of cruelty

**1960 Barry report (UK)** unanimously opposed the reintroduction of corporal punishment finding no evidence that it was an effective deterrent

**1961 Crimes Act** includes statutory confirmation (s59) of the common law principle that parents, carers and schoolteachers can use force to correct the behaviour of children

**1964 Society for the Discouragement of Physical Punishment in Schools** established by Prof Basil James.

**1968 *Crime in New Zealand*** Justice Department concluded that corporal punishment was objectionable because it was ineffective as a deterrent and degrading and unsuitable as a means of punishing juveniles

**1976 International Covenant on Civil and Political Rights** (later ratified by New Zealand) stated that no person shall be subjected to cruel, inhuman, degrading treatment or punishment

**1978 European Court of Human Rights in *Tyrer v UK*** held that judicial birching of a 15 year old in the Isle Of Man was 'degrading punishment' and breached the European Convention on Human Rights

**1978 Parliamentary Select Committee on Violent Offending** The Committee decided that legislation should not be used to change parental attitudes to smacking despite submission by Justice Department that the 'alleged special potency of corporal punishment was a myth'

**1979 Sweden was the first country in the world to prohibit all corporal punishment of children.** Sweden has been followed by Finland, Denmark, Norway, Austria, Cyprus, Latvia and Croatia

**1979 Penal Policy Review Committee** The Department of Justice advised that the reintroduction of corporal punishment as a judicial penalty would damage New Zealand's international reputation

**1979 International Year of the Child** At a major conference on *The Rights of the Child and the Law* the James and Jane Ritchie argued strongly for the repeal of s59 Crimes Act to a mixed response and a teacher's representative supported the continuation of corporal punishment in schools

**1980 New Zealand Committee for Children** established to carry on the initiatives from IYC year. The Committee consistently opposed the use of corporal punishment.

**1981 *Spare the Rod*** In the first comprehensive critique of corporal punishment of children in all its forms. The Ritchie's made a strong case for legal reform

**1982 Human Rights Commission Report** on children in Auckland residential homes heard from staff and residents of physical ill treatment

and punishment and questioned whether this amounted to cruel, inhuman, degrading treatment or punishment in terms of the Covenant on Civil and Political Rights

**1984 Labour government** indicates its intention to abolish corporal punishment in schools and child care centres

**1985 Child Care Centre Regulations** removed the right to use corporal punishment in any Child Care Centre

**1986 Children and Young People (Residential Care) Regulations** banned the use of corporal punishment in all residential institutions run by the Department of Social Welfare

**1989 Children, Young Persons and their Families Act** New Zealand's most comprehensive child protection law which allowed the state to intervene to protect children from abuse and neglect was subject to s59 which permitted parents and carers to hit children

**1989 New Zealand's first Commissioner for Children** appointed. Dr Ian Hassall and successive Commissioners for Children have pressed for the repeal of s59.

**1990 Education Amendment Act** a private members Bill which on a conscience vote of MPs abolished all corporal punishment in state and private schools

**1991 Department of Social Welfare Policy** on punishment for Departmental foster parents and family home personnel stressed that corporal punishment was unacceptable

**1993 United Nations Convention on the Rights of the Child** ratified by New Zealand. The government thus undertook to take all legislative and administrative measures to protect children from all forms of physical violence, abuse or maltreatment and to further protect them from cruel, inhuman or degrading punishment

**1996 Domestic Violence Act** provided for protection orders in cases of family or household violence whether physical, sexual or psychological. Parliament agreed that the definition of violence should be subject to the right of parents in s59 to hit their children by way of correction

**1997 United Nations Committee on the Rights of the Child** in its report on New Zealand recommended that New Zealand review s59 Crimes Act and to effectively ban all forms of physical violence towards children

**1997 EPOCH International** branch opened in New Zealand dedicated to the ending of all physical punishment of children

**1998 European Court of Human Rights** in *A v UK* held that the caning of a child by his stepfather amounted to an inhuman or degrading punishment and ordered the UK government to pay NZ\$30,000 compensation

**1998 *Children are Unbeatable*** an alliance of New Zealand non government organisations was established to press for legal reform to give children the same protection as adults

**1999 Department of Social Welfare** runs a national publicity campaign to educate parents that there are better ways of modifying children's behaviour than the use of corporal punishment.

**2000 Will section 59 at last be repealed so that children receive the same protection from violence as adults?**

*Research by Robert Ludbrook*

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