

DEFYING HUMAN NATURE



An Analysis of New Zealand's 2007 Anti-Smacking Law

About the Author



BOB McCOSKRIE is the founder and National Director of Family First NZ. Established in 2006, Family First NZ has quickly become a household name advocating for families and speaking common sense and values on a broad range of family issues in New Zealand.

He gained a Masters of Commerce at Auckland University, and a Diploma of Teaching at the Auckland College of Education. He lectured in a tertiary institute in accounting and tax law for four years. In 1994, he set up a charitable trust working with at-risk youth and their families in South Auckland. In 1996 he was appointed a Justice of the Peace. From 2002 - 2006 he was Breakfast /Talkback Host on the Rhema Broadcasting nationwide radio programme and television presenter on their current affairs show "N-Zone Focus".

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EXECUTIVE SUMMARY

When Prime Minister Helen Clark championed Green Party MP Sue Bradford's anti-smacking bill through Parliament in 2007, she said that the law was "about trying to stop the appalling toll of death and injury for children in homes in our country." On the other side of the House, Opposition Leader John Key was more cautious: "If I see good parents getting criminalised for lightly smacking their children for the purposes of discipline, I'm going to change the law if I'm in a position to do so. It's as simple as that. It doesn't matter if there's a referendum or not. I want the law to work properly."

The proposal to ban smacking was motivated by a commendable desire to reduce child abuse – a desire we all share, but was either leader accurate in their understanding of the effect of this law? Were their statements more about justifying the ideology behind the law without any real understanding or acknowledgement of just how this law would impact families and fail to achieve its stated aims?

This paper examines the social indicators relating to child abuse affecting our children and families in the years leading up to the ban on smacking and then since the law was passed. Has there been any improvement? Have the warnings about the anti-smacking law targeting the wrong parents been proved right? Is it time for politicians to respond to the concerns of law-abiding parents?

Key findings include:

- Notifications of abuse to CYF have increased more than six-fold since 2001. There is no evidence that this can be attributed simply to increased reporting or public awareness. Cases requiring further action have more than doubled since 2001 which has created a huge workload for CYF. In addition, substantiated cases of abuse found by CYF have increased from approximately 6,000 in 2001 to as high as 23,000 in 2013. While the past two years has seen a decrease in substantiated abuse found by CYF, this decrease is not matched by police convictions for abuse.
- While physical child abuse found by CYF continued its climb from 2001 right through to 2013 but dropped very slightly in the past two years, police statistics show a 200% increase since 2000 and a 136% increase since the anti-smacking law was introduced. The increase in serious physical abuse resulting in injury has increased by 86% since the law change. The government admits that numbers are projected to rise further.
- Sexual offences recorded by police and by CYF continue to rise but, once again, while the CYF rates have started to decrease in the past 48 months, there has been no matching decrease in police rates, with a 43% increase since the law change.
- Emotional abuse found by CYF has decreased since 2013 but is still 360% higher than 2001.
- Rates of neglect and ill-treatment of children have decreased in the past two years but are still unacceptably high each year, with a 45% increase in police rates since the law change.
- Child homicides continue to be a blot on NZ's image. New Zealand has one of the highest rates of child abuse deaths in the OECD.
- There has been a statistically significant increase in children diagnosed with emotional / behavioural problems (including depression, anxiety disorder, and ADHD) – a 132% increase since the smacking law was introduced.

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- The mental wellbeing of youth in terms of suicide and self-harm continues to be a huge concern.
- A survey in 2011 – four years after the law was passed - found that almost a third of parents of younger children say that their children have threatened to report them if they were smacked. Also, almost one in four parents of younger children say that they have less confidence when dealing with unacceptable behaviour from their children since the anti-smacking law was passed. There has been a number of organisations expressing concern about children physically threatening their parents.
- Two out of three New Zealanders say they would flout the law, and three out of four New Zealanders want the law amended.
- The overwhelming majority of New Zealanders reject the notion that the anti-smacking law will reduce rates of child abuse in any significant way.
- Australia, with five-times the population of NZ, has just over double the incidence of child abuse – without a smacking ban.

In summary, **there is not a single social indicator relating to the abuse of children that has shown significant or sustained improvement since the passing of the law.** They've continued to get worse, in some cases a lot worse. Those working on the frontline in our communities are not seeing any significant improvement – in fact, they're concerned about the ongoing unacceptably high levels of abuse, and believe that child abuse is still significantly under-reported.

It also appears that CYF has reached the point of 'saturation' and can no longer handle the level of notifications it is receiving, which in turn leads to its inability to investigate and find actual cases of child abuse which we need and expect them to find. A number of reviews of CYF have all highlighted problems within the organisation. A recent review by the Ministry of Social Development found that CYF is massively understaffed and that social workers do not have manageable caseloads and workloads. If CYF was a family, it would have had state intervention by now. Despite the important work it does and some excellent social workers, there is increasing evidence of massive systemic failure in the organisation as a whole.

The anti-smacking law has targeted law-abiding parents. An independent legal analysis at the end of 2014 of court cases involving prosecutions for smacking since the anti-smacking law was passed found that the anti-smacking law is complicated, difficult to apply, and lower courts are getting it wrong. The analysis by public law specialists Chen Palmer also said that **statements made by politicians to the effect that the new section 59 does not criminalise 'good parents' for lightly smacking their children are inconsistent with the legal effect of section 59 and the application of that section in practice.**

New Zealanders predicted all of this before the law was passed, but their concerns were ignored. The politicians and anti-smacking lobby groups linked good parents who smacked their children with child abusers – a notion roundly rejected by Kiwis. John Key was right - linking light smacking with child abuse was "*bloody insulting*".

The anti-smacking law assumes that previous generations disciplined their children in a manner that was so harmful that they would now be considered criminals. This undermines the confidence of parents in disciplining their children, fails to understand the special relationship and functioning of families, and has communicated to some children that they are now in the 'driving seat' and parents should be 'put in their place'.

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Since the 2007 anti-smacking law

Numbers = total cases since 2007 / % = total % increase since 2007

POLICE



136%

Physical Abuse of Children

16,128 offences



43%

Sexual Abuse of Children

12,664 offences



45%

Neglect of Children

3,779 offences

71 Deaths

71 Child Abuse Deaths

The anti-smacking law assumes that previous generations disciplined their children in a manner that was so harmful that they would now be considered criminals.

CYF



42%

24,528

Cases of Physical Abuse found by CYF since 2007

1,075,916

notifications of abuse to CYF

160,453 cases

of Substantiated Abuse found by CYF since 2007

88,803 cases

of Emotional Abuse found by CYF since 2007

36,797 cases

of Neglect found by CYF since 2007

10,325 cases

of Sexual Abuse found by CYF since 2007

MINISTRY of HEALTH



132%

Children diagnosed with emotional and/or behavioural problems

13,805 in 2007
32,000 in 2015



71%

Children hospitalised with mental and behavioural disorders

14,942 total

With police no longer reporting the effect of the anti-smacking law, it is now difficult to quantify how the law is being implemented.

In just the five years following the introduction of the law – covered by police monitoring reports - almost 600 kiwi families had a police investigation for allegations of smacking or minor acts of physical discipline, yet only 9% of them were serious enough to warrant charges being laid. That's a lot of wasted police resource. The other concern expressed by the police and families is the increase in false allegations.

This level of intervention also does not include the many more investigations by CYF. CYF claim that they can 'find' abuse where the police do not.

With police no longer reporting the effect of the anti-smacking law since 2012, it is now difficult to quantify how the law is being implemented, how police discretion is being used, and what the longer term trend is in terms of investigations.

The fact that so many social indicators around the welfare of children continue to worsen proves that we simply are not tackling the real causes of child abuse. It also proves that the law has been completely ineffective in terms of tackling the problem it was supposed to confront.

It may even suggest that the law is doing more harm than good.

Some lead researchers in this area suggest that, despite the best of intentions, **the prohibition of all forms of physical correction may inadvertently undermine appropriate parental discipline with the result that a small but increasing percentage of boys may grow up with a dangerous combination of disrespect for their mothers and a lack of self-control.** The researchers argue that physical chastisement should not be banned until there is scientific evidence that alternative disciplinary tactics are effective for defiant children as well as easily managed children. They note that neither supporters nor critics of anti-smacking laws have been able to identify alternative methods of discipline that are as effective in reducing child behaviour problems when using the same scientific methods used to denounce smacking. Without mild smacking, a parent's frustration may continue escalating in such disciplinary situations, thereby increasing the risk of exploding with overly severe physical abuse and verbal hostility. Although milder disciplinary tactics may be sufficient for easily managed children, they are inadequate for controlling the behaviour of young oppositional defiant children.

Ultimately, the supporters of smacking bans were influenced by political ideology rather than common sense, good science and sound policy-making. It also communicated the message that political parties don't trust kiwi parents to raise their own children responsibly.

We can solve the issue of child abuse, but we must be willing to confront the real issues. Criminalising good parents who simply want to raise law-abiding and responsible citizens is bad law-making.

What matters most is that the voice of New Zealanders is heard and respected!

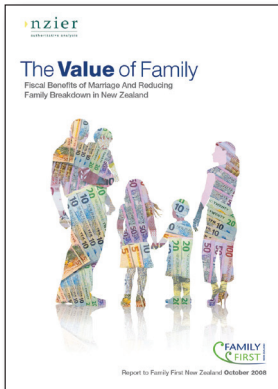
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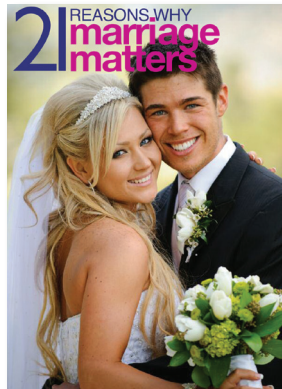
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Previously Published by Family First NZ



Family Breakdown
2008



Marriage
2009



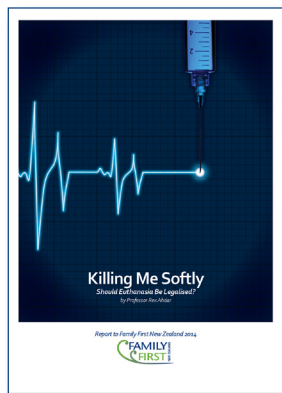
Drinking Age
2011



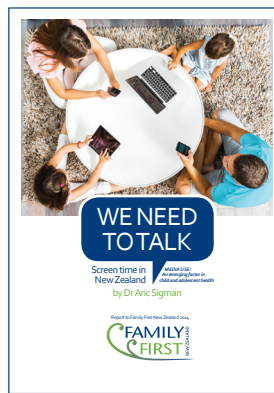
Daycare
2012



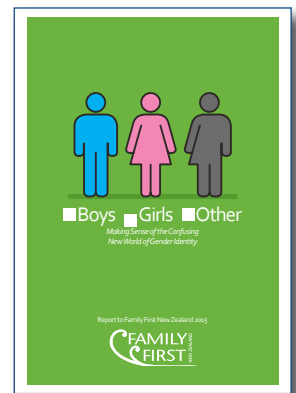
Sex Education
2013



Euthanasia
2014



Screen time
2015



Gender
2015

About Family First NZ

Family First NZ is a charitable organisation formed in 2006, and registered as a charity with the Charities Commission. Its purposes and aims are:

- to promote and advance research and policy regarding family and marriage
- to participate in social analysis and debate surrounding issues relating to and affecting the family
- to produce and publish relevant and stimulating material in newspapers, magazines, and other media relating to issues affecting families
- to be a voice for the family in the media speaking up about issues relating to families that are in the public domain



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