

THE 2009 CHILD DISCIPLINE REFERENDUM – WHAT CHILDREN AND YOUNG PEOPLE THINK ABOUT PARENTS' RIGHT TO HIT CHILDREN

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law

- United Nations Convention on the Rights of the Child, Articles 12(1) and 12(2), ratified by New Zealand in 1993

INTRODUCTION

In 2007, the New Zealand Parliament passed a Private Members Bill tabled by Sue Bradford MP to repeal Section 59 of the Crimes Act 1961. The old Section 59 provided a statutory defense for adults prosecuted for assaulting a child if the force used in the assault was for the purposes of correction and it was reasonable in the circumstances.

A petition in response to this law change was organized by Larry Baldock and gained a sufficient number of signatures (in excess of 10% of the count of registered voters) to force a Citizens Initiated Referendum¹, to be held by postal ballot in July and August 2009².

As with many aspects of children's lives, the debate regarding repeal of Section 59 of the Crimes Act and the subsequent referendum on this law change to be held in 2009 have been conducted by adults with little or no reference to the views of children and young people themselves³, despite the Convention on the Rights of the Child unambiguously asserting the right of children to express their views and be explicitly provided with the opportunity to be heard on issues affecting them.

In order to help ensure that the opinions of children and young people on the subject of the referendum will be heard, commencing in April 2009, New Zealand child helpline 0800WHATSUP (*What's Up*) conducted a telephone survey of children and young people.

What's Up was established in 2001 and receives more than 1,400 calls each day from children and young people throughout New Zealand (The Kids Help Foundation Trust, 2009). Callers are invited to ring *What's Up* to talk about anything they wish; their call will always be taken seriously and their opinions discussed in good faith by the *What's Up* counsellors. There is reason to believe that *What's Up* is a trusted forum for children and young people to express their thoughts and feelings about issues of importance to them.⁴

¹ See the Citizens Initiated Referenda Act 1993

² The referendum question is, "Should a smack as part of good parental correction be a criminal offence in New Zealand?"

³ The survey of the views of children and young people on family discipline conducted by Terry Dobbs is acknowledged (Dobbs, 2005).

⁴ The rate of calling to *What's Up* is among the highest for child helplines in developed countries throughout the world (Child Helpline International, 2007) and the primary source of referral for callers is other children and young people.

The survey will continue until the referendum is closed. This is a report on the first two weeks of results from the survey. Further reports will follow in the lead up to the referendum and a concluding report will follow the referendum.

METHOD

Children do not call What's Up in order to be a survey target, so the way was left open for all callers to opt in to the survey without having to disclose to a What's Up counsellor whether or not they chose to do so. This was achieved using an automated message played to callers 25 seconds after they had been waiting to speak to a counsellor, if one was not available before then. To minimise intrusion and pressure to participate, the initial invitation to take part in the survey was kept brief and couched in language that children of most ages could understand:

Hi. People are currently discussing if parents should be allowed to hit their children, and the government will soon ask every adult to say what they think about this. What's Up would like to give you a chance to say what you think. If you want to let us know what you think about parents hitting children, please press 1 now. After you have finished, you will come back to the queue to speak to a counsellor. If you just want to keep waiting now, just stay on the line.

The word "hit" was chosen to represent "force" because of its simplicity and descriptive nature that is likely to be commonly understood by children. We believe that other forms of force, such as physical restraint without striking, are not at issue in this debate.

The word "smack" has been commonly used in the debate but we believe this to be a euphemism for what would in any other context be called a hit. We maintain that the use of the word "smack" is validated specifically by its connection with children, so that the sanctioning of assault on children is embedded in the word "smack". When the word "smack" is substituted for "hit" in phrases describing assaults on adults, such as "he smacked his wife" or "he smacked the guy who gave him some cheek", the juxtaposition of "smack" and an object who is an adult is incongruous, unless read metaphorically⁵. From this, it can be seen that "smack" carries the sanctioned assault on children within its meaning. Consequently, we maintain that to use the word "smack" in a question regarding the corporal punishment of children presupposes the answer to the question. The action referred to is more simply called a "hit".

Callers who opted in to the survey were transferred to the survey question:

In 2007, the government changed the law so that adults who are taken to court for hitting a child can no longer use the excuse that they were just disciplining the child. Now, some people want government to change the law back so that that excuse can be used again.

You can tell us what you think of this by pressing the button on your phone that best matches your opinion - there is no right or wrong answer, we just want to know what your idea is. No-one will be able to find out what answer you have given.

Get ready, here is the question:

Do you think that adults who are taken to court for hitting a child should be let off if they say they were disciplining the child?

⁵ There is a colloquial use of "smack" that implies considerable violence (e.g. "he smacked him up") but this meaning of "smack" is likely to be incongruous with most people's idea of "good parental correction" entailed in the referendum question.

If you think they should be let off, press 1

If you don't think they should be let off, press 2

If you aren't sure, press 3

If you want to hear the question again, press 4

Following completion of the survey, callers received an invitation to add verbal comments if they wished:

Thanks very much. If you want to tell us more about what you think about adults hitting children, you can talk to the What's Up counsellor about this shortly. Please wait and you will be transferred back to the queue in a few seconds.

RESULTS

Some verbal feedback given to the counsellors indicated that some children found the question difficult to understand and some did not respond or did not press valid keys (Table 1). In total, 1,677 valid responses were recorded during the course of the survey from 27th April to 10th May. This constitutes 10.3% of all calls offered the opportunity to participate in the survey during this period.

Table 1. Overall survey response

RESPONSE	Count	%
No response/hang up	437	20.3
Invalid response (keys other than 1-4)	41	1.9
Valid response	1,677	77.8
Total	2,155	100.0

It was decided not to complicate the survey by attempting to collect demographic data on the calls, however some indication of geographical distribution (see Table 2) can be obtained from the calling line ID (telephone number) data⁶, which was available for 196 respondents (9.1% of the 2,155 responses received in total).

Table 2. Geographical distribution of callers

REGION	%
Northland	1.02
Auckland	18.37
Waikato	5.10
Bay of Plenty	7.14
Gisborne	1.53
Hawke's Bay	8.16
Taranaki	4.08
Manawatu-Wanganui	10.71
Wellington	5.10
Marlborough	3.57
Nelson-Tasman	2.55
West Coast	2.55

⁶ The first five digits of a landline calling line ID indicate the local exchange to which the telephone is connected, enabling identification of the general geographic location of the caller but not the specific address.

Canterbury	20.41
Otago	6.63
Southland	3.06
TOTAL	100.00

This geographical distribution of voters closely matches that of all calls received during this period.

Information on the calling line IDs also indicates that multiple votes were made from some telephone numbers. It is not clear whether these represent the same individual voting numerous times or numerous individuals calling from the same telephone number. In order to minimise the effect on the results of some individuals registering many votes, the votes were filtered by including only the first valid response from each telephone number. This process eliminates subsequent valid responses from distinct individuals calling from the same number, however it was believed that the majority of multiple calls from the same number would be from the same individual.

This filtering resulted in 1,305 votes being included in the final results (77.8% of the 1,677 valid votes made). Multiple votes were slightly more likely to be for the response “I don’t think they should be let off” than for “I think they should be let off”, with no statistically significant effect on the “Not sure” votes.

Table 3. Votes received

<i>Do you think that adults who are taken to court for hitting a child should be let off if they say they were disciplining the child?</i>			
Response	Count (all votes)	Count (multiple votes excluded)	%* (multiple votes excluded)
<i>I think they should be let off</i>	548	444	34.02
<i>I don't think they should be let off</i>	958	727	55.71
<i>I am not sure</i>	171	134	10.27
Total	1,677	1,305	100.00

* Margin of error = 3%

CALLER COMMENTS

After completing the survey, callers were invited to share any further thoughts about this issue with the counsellor. Nineteen callers took this opportunity during the period reported in this paper. A sample of these comments is given below. All comments can be found in Appendix I. Instances where the words cited are those of the counsellor rather than the caller are indicated by the word “Counsellor” appearing in parentheses.

Male, aged about 12: (Counsellor) “He said it’s not really that good [for parents to hit their child] but it depends on what happened, or what the child did”. He said it depends on whether the child does something ‘really, really, really, really, really bad’, for example, ‘if they break a window on purpose’”.

Male, aged 13: “I don’t think parents should be allowed to hit their kids to discipline them, because they’d always use this as an excuse when they’re not actually disciplining their child but they just want to smack them”. “I actually got hit straight across the face and yeah, my Dad is the one that hit me, and he wasn’t actually disciplining me cos I was actually being good. He just hit me probably because he was angry at something”. “It’s wrong, full stop!”

Female, aged 9: “I don’t think that if a parent smacks their child, they should go jail. I wouldn’t want my mum to go to jail. But maybe they could get a warning”. “I do think that if a parent abuses their child, they should go to jail.”

(Counsellor) “I had a caller tonight who had an opinion about the survey and about that Law. He said that hitting a child should be banned. He also said the reason why he felt like this is because he has a friend that got “bashed” by his father because he was being bad. He said that a warning slap on the bottom is ok but when they go overboard, then that should be a crime. He also stated that he felt annoyed that the government has brought this matter up again when everything was fine.”

SUMMARY AND CONCLUSIONS

As a means of providing children and young people with the opportunity to exercise their right under Article 12(1) of the UNCRC to express their point of view on a matter that affects them, this survey has proved successful in eliciting a large proportion of meaningful votes and comments, with a response rate of around 10%.

The survey results show a range of opinion among children and young people on the right of parents to use corporal punishment to discipline children. A significant majority was against this right but a sizeable proportion was in favour of parents being able to use discipline as a defense against assault charges.

The comments offered show insight and thoughtful consideration of the issue by the children responding, increasing confidence in the validity of the numerical voting results.

The comments suggest that some children who are in favour of discipline as a defense might be against corporal punishment but do not want to see a parent penalized for using corporal punishment that is not excessive.

They show recognition of a clear distinction between “smacking” and abuse, the possibility that “smacking” could lead to abuse, and that corporal punishment causes pain and suffering. The comments also show that some children believe that learning is contingent upon corporal punishment and that pain and suffering are a necessary part of the learning process.

Others show the recognition that there are alternatives to corporal punishment and that corporal punishment is not an effective means of discipline.

Nearly all the comments show a clear acceptance of the need for children to be disciplined when they misbehave.

A range of opinion is to be expected; children and young people are as varied as adults and likely to show a variety of points of view. They also reflect the culture within which they are growing up and learning, so it is to be expected that some children will maintain that corporal punishment is a necessary part of parenting, just as some adults do.

Similarly, it is no truer for children than adults that their opinions on what constitutes good parenting are well aligned with the findings of parenting research (Smith, 2005). The results of this survey do not comment on what constitutes good parenting but they do show that a majority of children think that parents should not be able to use discipline as a defense if they are taken to court for assaulting a child.

Implementation of the right of children under UNCRC Article 12(2) to have their opinions heard on the 2009 Referendum is contingent upon those involved in considering the referendum results paying due attention to the findings of this research and other sources of the views of children and young people on this topic.

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APPENDIX 1: VERBAL COMMENTS FROM SURVEY PARTICIPANTS

Male, aged about 12: (Counsellor) “He said it’s not really that good [for parents to hit their child] but it depends on what happened, or what the child did”. He said it depends on whether the child does something ‘really, really, really, really, really bad’, for example, ‘if they break a window on purpose’”.

Male, aged 13: “I don’t think parents should be allowed to hit their kids to discipline them, because they’d always use this as an excuse when they’re not actually disciplining their child but they just want to smack them”. “I actually got hit straight across the face and yeah, my Dad is the one that hit me, and he wasn’t actually disciplining me cos I was actually being good. He just hit me probably because he was angry at something”. “It’s wrong, full stop!”

Female, aged 9: “I don’t think that if a parent smacks their child, they should go jail. I wouldn’t want my mum to go to jail. But maybe they could get a warning”. “I do think that if a parent abuses their child, they should go to jail.”

Female, aged 13: “There isn’t enough options, there should be one about bruising. It’s fair if they get let off but sometimes it might not be discipline.” (Counsellor) “The interpretation I got from this caller was that she thinks its OK to smack (‘a little tap on the bum’) but that if there are bruises, it is not OK. I got the sense that she was quite confused about both the question and the law as it stands at the moment. I also found it interesting that towards the end of the call, the caller said that she chose option number one [*I think they should be let off*] but now would chose option number two [*I don’t think they should be let off*].

(Counsellor) “I had a caller tonight who had an opinion about the survey and about that Law. He said that hitting a child should be banned. He also said the reason why he felt like this is because he has a friend that got “bashed” by his father because he was being bad. He said that a warning slap on the bottom is ok but when they go overboard, then that should be a crime. He also stated that he felt annoyed that the government has brought this matter up again when everything was fine.”

Male, aged 12: (Counsellor) “He said that parents should be allowed to hit their children because there were more students getting suspended from school than 10 years ago. He gave me an example that if a child did something really wrong at school and the teacher was telling their parents about it, but the parents couldn’t take any action of hitting them then the child will just do it again. And he thinks if the parents could just strap and hit the child then the child will be scared and will not likely to do it again.”

Female, aged 11: (Counsellor) “She thinks parents should not be allowed to hit their children and should be taken to court and jail if needed.”

Male, aged 12: [Getting a smack] should be ok...if they are disciplining them for playing up, they deserve it...but it shouldn’t be too hard.” “I behave a bit more when I get a smack.”

Female, aged 11: “Its bad that they are smacking them. Its good that they are disciplining them but they shouldn’t be hitting them really hard. May be they could send them to the corner.”

Male, aged 11. (Counsellor) “He thinks parents should only be allowed to smack their children when they have done something really wrong, like a situation where they got the police involved, maybe like children got into a big fight with others. He thinks at other times when the children did little things wrong should only just get grounded and not a smack.”

Male, aged 8: (Counsellor) "He thinks parents should not be allowed to smack their children in any sort of situations. He said smacking does not solve the problems, and everybody makes mistakes."

Male, age unknown: (Counsellor) "He said he thinks parents should stop hitting their children because they hurt the children."

Female, aged about 13: "Parent's shouldn't be allowed to hit their children for no reason, but they should be allowed to for discipline otherwise there's no other way they will learn. Sitting a kid down won't help, because the kid hasn't gone through any pain or suffering that they would go through if they did something wrong when they were older."

Sex and age unknown: ""Parents should be allowed to smack their kids if they are usually good but sometimes naughty, like hanging out with the wrong people or being up to mischief."

Female, aged 11: (Counsellor) "She said she didn't think parents should be allowed to hit their children."

Sex and age unknown: "Kids can be smacked but should not be physically abused... but it is leading a bit far to be legally punished for a smack."

Male, aged 11: "Parents shouldn't be let off...they should be charged, because its assault." "[If charged] parents should do community service, or if [the abuse/hitting] is really bad, the kids should be taken off them."

Male, aged 15: (Counsellor) "He said there were too few options. He was waiting for an option which gave a 'depends on x, y or z' option such as agreeing with the anti-smacking law but it being dependent on whether a child is hit over so many times or just once. He said he thinks the new law is good as parents won't have an excuse to hit their children. It will be good because it will mean some children may be hit once and it will end there and some children won't be hit at all. He said the law will, 'prevent a hit from going to child abuse. I think that's the best thing. If it's stopped by one smack...I think it'll be more safer if it stops at one smack.' I think he seemed quiet clued up on the law not really criminalizing parents for one smack and this resulting in court/prison."

Male, aged 9: "I think parents shouldn't be allowed to hit their kids, cos it's just wrong."