

## Why is it called the “anti-smacking” law?

This is what the architect of the law change (Green MP Sue Bradford) called it! Groups who supported it such as Barnardos, Plunket, and the Children’s Commissioner have all been calling for a ban on smacking.

## What does the law actually say?

### 59 Parental control

(1) Every parent of a child and every person in the place of a parent of the child is justified in using force if the force used is reasonable in the circumstances and is for the purpose of—

(a) preventing or minimising harm to the child or another person; or

(b) preventing the child from engaging or continuing to engage in conduct that amounts to a criminal offence; or

(c) preventing the child from engaging or continuing to engage in offensive or disruptive behaviour; or

(d) performing the normal daily tasks that are incidental to good care and parenting.

(2) Nothing ... justifies the use of force for the purpose of correction.

(4) To avoid doubt, it is affirmed that the Police have the discretion not to prosecute complaints ... where the offence is considered to be so inconsequential that there is no public interest in proceeding with a prosecution. (Abbreviated)

## What does this mean?

Yes it is confusing, but basically, a parent cannot use physical contact or force to **correct** their child’s behaviour, only to **prevent** bad behaviour. But “the distinction between prevention and correction is unclear in many cases. Preventing particular actions will often amount to correcting them.”

The law “also creates confusion with its reference to police discretion .... Citizens have a right to know what the law requires and not to be subject to arbitrary enforcement. In addition, it refers only to police discretion. It does not apply to any other agency, such as Child, Youth and Family (CYF).”

Source: Explanatory Note to Private Member’s Bill to amend s59 Crimes Act.

## Is all “correction” deemed bad, or just smacking?

Interesting question! At a recent Early Intervention Association conference, they were told “time out” and the “naughty chair” are unprofessional and in breach of (UN) Declaration of the Rights of the Child.

Perhaps other forms of appropriate and effective parental correction like “time out” will be banned.

## Some people say that all smacking is banned, others say that it’s not.

And that is part of the problem. The supporters of the anti-smacking law have confused the public by trying to mask its real effect. For example, compare these quotes from Green MP Sue Bradford:

2007 “... it is already illegal to smack children.”

2008 “Smacking has never been a criminal offence, and still isn’t.”

2008 “... parents need to accept that it is no longer legal to hit children.”

## Aisea ua ta’u ai o le tulafono “teena le sasa”?

O le igoa lena na faaigoa ai e le na fauina le suiga o le tulafono (Sui Tofia o le Green Sue Bradford)! O faapotopotoga na lagolago i ai, o le Barnardos, Plunket, ma le Children’s Commissioner sa manuo ia faasa le sasa

## O le a tonu le fuaitau a le tulafono?

### 59 Pulega faamatua

(1) O matua uma ma soo seitasi ua sui tulaga faamatua i le tamaititi ua ta’ utonuina lona faaaoga o se malosi pe afai e talafeagai lona faaaogaina i le siomiaga ma lona fuafuaga ia---

(a) puipuia poo le faaitiitia le afaina o le tamaititi poo se isi tagata, poo ia

(e) puipui le tamaititi i le auai poo le faauauina le auai i amioga e aofia i soligatulafono; po’o le

(i) puipui mai le tamaititi i le auai po’o faauau ona auai i amioga faatausuai po o le faavevesi; poo

(o) le faatinoina o tiute masani o aso uma e auga i le tausiga lelei ma uiga faamatua.

(2) E aunoa....mase ta’ uamiotonuina o le faaaogaina o le malosi mo le faamoemoe ia faatonutonuina.

(4) Ia alofia masaloga, na faamaonia ua i leoleo le saolotoga e lē moliaina ni faitioga....pe afai e manatu e matua’i faatauavaa le solitulafono ma leai se faamalieina o le lauaitale pe a faauauina se moliaga. (Ototoina)

## O le a le uiga o lea mea?

loe ua fenunia’i, ae faavae lava, e le mafai e se matua ona faia le pa’itino po’o se malosi e **faasa’o** ai le amioga a lana tama, vagana ia **puipui mai** le amio leaga. Peitai “i le va faatusatusa ole puipuia ma le faasaosao e le manino i mea na tutupu. O le puipuia o gaoioga topito e toe au i le toe faasaosao uma ”.

O le tulafono “e iai foi le fenunia’i pe a faatatau i le sa’olele o Leoleo...e iai le aiā tatau a tagata-nu’u ia silafia ai o mea o manaomia e le tulafono, ma ia lē aafia i suiga faamalosi faatagata. Faatasi ai, ua faasino le sa’olele o leoleo. E le lo faatatauina i isi matagaluega , e iai Child, Youth and Family (CYF)”

Maua mai le: Explanatory Note to Private Member’s Bill to amend s59 Crimes Act.

## O faasa’osa’oga uma e leaga, po’o na o le sasa?

Manaia le fesili! I le koneferenisi lata mai nei a le Early Intervention Association, sa faailoa ia latou “time out” ma le “naughty chair” e lē se aoaoga ma se togafiti lelei, ua solia ai le (UN) Declaration of the Rights of the Child.

Masalo o nisi faiga talafeagai ma aoga mo faasa’osa’oga faamatua o le a faasaina, pei o le “time out”.

## O nisi tagata ua faapea ua faasaina sasa uma, o nisi e faapea e leai.

Ma o le isi vaega lena o le faafitauli. Ua faanunumi e i latou o lagolagoina le tulafono teena o le sasa ia tagata lautele i le taumafai e ufiina le afaina moni. Mo se faataitaiga, faatusatusa ane tala tuusa’o ia a le Sui Tofia mo le Green Sue Bradford:

2007 “...o le taimi lava lenei o le solitulafono le sasaina o tamaiti”

2008 “e le’i avea lava le sasa ma se solitulafono, e o’o lava i le taimi nei”

2008 “...e manaomia le taliaina e matua ua le toe taga i le tulafono le tāina o tamaiti.”

## Why is a referendum being held on this issue?

More than 300,000 signatures were gathered on a petition demanding a referendum on the law change, and under the Citizens Initiated Referenda Act, this forced a referendum to be held.

## What is the question being asked?

“Should a smack as part of good parental correction be a criminal offence in New Zealand?”

## Didn't 113 MPs vote for the law change?

Yes they did. It was supposed to be a “conscience vote” but the two major parties - Labour and National – were “whipped” by their leaders (had to vote along party lines) to vote for the law.

## But isn't the law working?

Definitely not. As predicted, good families have become victims of unwarranted investigations and even prosecutions by police and temporary removal of children by CYF. For example, the number of notifications to CYF has seen an explosion of over 30% in the year since the passing of the law (see top line of graph) yet the number of cases requiring further investigation (FARs middle line) has decreased. We are wasting valuable police and CYF resources investigating cases that simply aren't abuse.

## But the police aren't investigating people for smacking, are they?

Once again, not true. A police six month review early last year showed a 200% increase in families being investigated for “smacking” and “minor acts of physical discipline” yet less than 10% were serious enough to warrant prosecution. Over just a six month period, four “minor acts of physical discipline” were prosecuted.

## Do you have examples of good parents being investigated, prosecuted, and children being removed from families?

Yes, unfortunately. There are plenty of examples on our website [www.familyfirst.org.nz](http://www.familyfirst.org.nz). These are just the ones that we are aware of. There will be plenty of others that we don't know about (as suggested by the CYF investigation figures above).

## Hasn't the law helped stop child abuse?

Unfortunately, no – and this comes as no surprise to Green MP Sue Bradford. In an interview in late 2007 as the child abuse death rate continued, she said, “The epidemic of child abuse and child violence in this country continues – sadly. My bill was never intended to solve that problem.” Since the passing of the anti-smacking law, there have been 12 child abuse deaths – continuing the same rate as before the anti-smacking law was passed.

## Aisea ua faia ai se palota fesili i le mataupu lea?

E sili atu i le 300,000 saina na mauaina i se tusiga-igoa sa faia e fimau ai se palota fesili i le suiga o le tulafono, ma i lalo o le Citizens Initiated Referenda Act, ua faamalosi ai le faatauunuina o le palota fesili.

## O le a le fesili ua tuuina mai?

Pe tatau ona faatulafonoina le sasa pe afai o se vaega o le faasaosaina e matua lelei?

## Na le'i MP e 113 mo le suia o le tulafono?

Ioe o lea lava. Sa faapea o se “palota ma le iloa” ae o pati tetele e lua – Labour ma le National – na “faatonuina” e o latou ta'ita'i (e palota e tusa ma taiala a le pati) ia palota mo le tulafono.

## Ae e le o galue le tulafono?

E manino e leai. Pei ona valoia, ua afaina aiga lelei i le su'esu'e vale e o'o lava i moliaga a leoleo ma le aveeseina o tamaiti e le CYF i se umi lē tumau. Mo se faata'ita'iga, talu mai le taimi na pasia ai le tulafono, ua oso i luga o le 30% le numera o fesootaiga ile CYF (vaai le laina pito i luga o le galafa) peitai ua faaititia le numera o tagi e manaomia le su'esu'e atili (FARS laina ogatotonu). Ua tatou faamaimauina mea faigaluega tāua a leoleo ma CYF i le su'esu'eina o tagi e faigofie i e vaai e lē o le sauāina.

## Ae e lē o su'esu'eina e leoleo tagata mo le sasa, a ea?

I le ma lea, e lē moni. I le amataga o le tausaga ua te'a atu nei o le iloiloga a leoleo i le ta'ono masina, na faaalai ai le siitaga e 200% o aiga o su'eina mo le “sasaina” ma “gaoioiga laiti o le a'oa'oina i le faao'olima” ae e lē silia i le 10% le lē lava le tuga e mana'omia mo se moliaga. I le pilota laiti o le ono masina, e fa “gaoioiga laiti o le a'oa'oina i le faao'olima” na molia.

## O i ai ni faata'ita'iga o matua lelei o su'esu'eina, moliaina, ma ave'eseina fanau mai i o latou aiga?

Talofa e, ioe. E tele faata'ita'iga i la matou website [www.familyfirst.org.nz](http://www.familyfirst.org.nz). Na o lea ua matou iloaina. E tele isi mea e tutupu matou te lē o iloaina (pei ona ta'ua i suega a le CYF o i luga).

## E le o fesoasoani le tulafono i le taofia o le sauaina i tamaiti a?

Talofa e, e leai – ma e lē o se mea e ofo ai le Sui Tofia o le Green Sue Bradford. I le faatalanoaga i le faaiuga o le 2007 a o alualu pea le maliliu o fanau sauāina, na ia faapea ai “o le faama'i o le sauāina o fanau ma fanau osofaia faamalosi ua tupulaia i le atunuu- faanoanoaga lea. E le'i ai se faamoemoe o la'u pili e foia le faafitauli lena.” Talu mai ona pasia faaletulafono le Teena o le sasa, e 12 tamaiti sauāina ua maliliu – ua alualu tutusa tulaga pei ona sa i ai a o le'i faatulafonoina le Teena o le Sasa.

### So what are the causes of child abuse?

UNICEF reports (2003) (2007) and a CYF report (2006) listed factors most commonly associated with the maltreatment of children including:

- drug and alcohol abuse - family breakdown
- poverty and stress - poor housing
- low maternal education - low maternal age at birth
- children not living with biological parents

- single-parenthood / weak family ties

In the UNICEF report, of the 10 top countries which were deemed safest and promoted the highest level of wellbeing for children, six hadn't banned smacking.

### What does the research say about smacking and child abuse?

A 2007 Otago University study found that children who were smacked in a reasonable way had similar or slightly better outcomes in terms of aggression, substance abuse, adult convictions and school achievement than those who were not smacked at all. And a study by the Christchurch School of Medicine found there was no difference in outcomes between no smacking and moderate physical punishment. They said, "It is misleading to imply that occasional or mild physical punishment has long-term adverse consequences."

### Sweden banned smacking in 1979. What effect did that have?

Research has shown that the Swedish smacking ban has done more harm than good. Since the ban on smacking, there has been more than a 15-fold (1505%) increase in physical child abuse against children under the age of seven, and more than 24 times as many charges of criminal assaults by youth against other youth.

### Why do groups like Barnardos and Plunket support the anti-smacking law?

These organisations mistakenly think that banning smacking will help reduce child abuse in New Zealand. Of course they're right to be concerned about our rates of child abuse—we can all agree on that—but a light smack for correction is not the same as abuse. Their focus is in the wrong place. They should oppose a law that makes criminals out of good parents and that takes the focus away from where it should be—on the real causes of child abuse. Their frontline workers know this.

### la o a mafuaaga o le sauaina o fanau?

O lipoti a le UNICEF (2003) (2007) ma le lipoti a CYF (2006) na lisiina mea e masani ona vaaia i le faasauaina o tamaiti e aafia ai le:

- soona faaaogaina o fualaau malosi faasaina ma le `ava - malepe le aiga
- le mativa ma le lutiaina – leaga o fale
- maulalo o a`oga o tinā – fanau a o laiti tausaga
- lē nonofo tamaiti ma matua moni
- tasi le matua / vaivai sootaga ma aiga

I le lipoti a le UNICEF, i atunuu e 10 o pito sili ona saogalemu ma sili ona maua le manuia o taimaiti, e to`aono e le`i faasaina le sasa.

### O le a le tala i su`esu`ega o le sasa ma le sauaina o tamaiti?

O se sailiga a Otago University i le 2007 na maua ai o tamaiti na sasaina i se ala tatau na foliga tutusa po`o le sili atu foi o latou i`uga i le vaega o le amio lē pulea, le soona faaaogaina o fualaau faasaina, solitulafono faatagata matua ma tulaga pasi i a`oga lo latou e le`i o`o lava i ai le sasa. Ma i se sailiiliga a le Christchurch School of Medicine na maua ai e leai se eseesega i iuga i le va o le leai o se sasa ma le faao`olima māmā. Ua latou faapea mai, "o se ta`ita`iga sesē pe a faapea e umi se taimi e afaina ai i le sala faao`olima e mamā po`o le faia i nisi o taimi.

### Na faasaina le sasa i Sweden i le 1979. O le a le tulaga na o`o i ai?

Ua faaalia mai su`esu`ega o le faasaina o le sasa e tagata Swedish ua tele atu le afaina lo le lelei. Talu na faasā le sasa, ua sili atu i le faatele i le 15 (1505%) le siitaga i le sauā faao`olima i tamaiti lalo o le fitu tausaga le matua, ma sili atu i le faatele i le 24 o moliaga i e solitulafono o le faao`olima o tagata talavou i isi tagata talavou.

### Aisea e lagolagoina e faapotopotoga pei o le Barnardos ma le Plunket le tulafono mo le teena o le sasa?

O le manatu sesē o faapotopotoga e faapea ai o le faasaina o le sasa e fesoasoani lea i le faaititia o le sauaina o tamaiti i Niu Sila. E moni e sa`o le latou popolega i le numera o le sauaina o tamaiti – tatou te taliaina uma lena mea – peitai o le sasa mamā mo le faasa`oina e lē tusa lea ma le sauaina. O le latou faamamafa ua taatia sesē. E tatau ona latou teena se tulafono e aveai ai matua lelei ma tagata solitulafono ma ua aveesea le vaai toto`a mai le mea e tatau ona iai – i mafuaaga moni o le sauaina o tamaiti. E silafiaina e le aufaigaluega oi luma.

For more details on all these questions, visit [www.voteNO.org.nz](http://www.voteNO.org.nz)

Mo nisi faamatalaga i fesili ia, asiasi ile [www.voteNO.org.nz](http://www.voteNO.org.nz)

## So what's the solution?

1. Fix the current law so that good parents who use a nonabusive smack for the purpose of correction are deemed to be committing a criminal offence in the eyes of the law and liable to potential investigation and interrogation by police and/or CYF.
2. Appoint a Royal Commission to identify and address the wider causes of family breakdown, family violence and child abuse – for more details see [www.stoptheabuse.org.nz](http://www.stoptheabuse.org.nz)

## O le ā la le tali?

1. Ia togafitia le tulafono o i ai nei ina ia leai se faamasinoina o se gaiōiga faasolitulafono i matua lelei le faaaogaina ole sasa mo le faasa`osa`oina e ono avea ma mafuaaga e fesiligia ma su`esu`e ai e leoleo ma/po`o CYF.
2. Tofia se Royal Commission e saili ma fai iai se faataau i mafuaaga lautele o le malepelepe o aiga, amioaga le pulea i totonu o aiga ma le faasauāina o tamaiti - mo nisi faamatalaga vaai ile [www.stoptheabuse.org.nz](http://www.stoptheabuse.org.nz)

In the end what matters most is that the voices of ordinary New Zealanders are heard! The Referendum means that the politicians must listen to your views.

I le mea e sili ona tāua i lona faaiuga o le lagonaina o leo o tagata Niu Sila! O le autu o le Palota Fesili o le faalogo lea o sui palemene i sou manatu.

**Protect good parents Puipui matua lelei**  
**Tackle the *real* causes of child abuse**  
**Pu`e mafuaaga *moni* o le sauāina o**  
**tamaiti**

visit [www.voteNO.org.nz](http://www.voteNO.org.nz) for more info  
asiasi ile [www.voteNO.org.nz](http://www.voteNO.org.nz) mo nisi faamatalaga

### Anti-smacking Referendum '09

“Should a smack as part of good parental correction be a criminal offence?”

31 July - 21 August 2009

### Palota fesili o le Teena o le Sasa

“Pe tatau ona faasolitulafonoina le sasa pe afai o se vaega o le faasa`osa`oina e matua lelei?”

31 Iulai – 21 Aukuso