



"A DOG'S BREAKFAST"

John Key 2009

## How do we know if a law is 'good' or not?

A good law is clear and succinct to the public, especially to those people whose behaviour may be criminalised.

Its necessity and purpose is clearly presented by those

promoting it; it directly targets the problem at hand; there is at least some improvement as a result of the law; and it has public support.

If we examine the social indicators affecting our children and families in the years leading up to the ban on smacking, and then the 13 years since the law was passed, has there been any improvement? Has the law made any difference to the unacceptable child abuse rates in New Zealand? Has it impacted the general wellbeing of our children, and our families?

On all counts, the anti-smacking law fails. Even the previous Minister for Children Tracey Martin admitted the law has had a chilling effect on parents and that she wanted to improve the legislation to make it clearer.

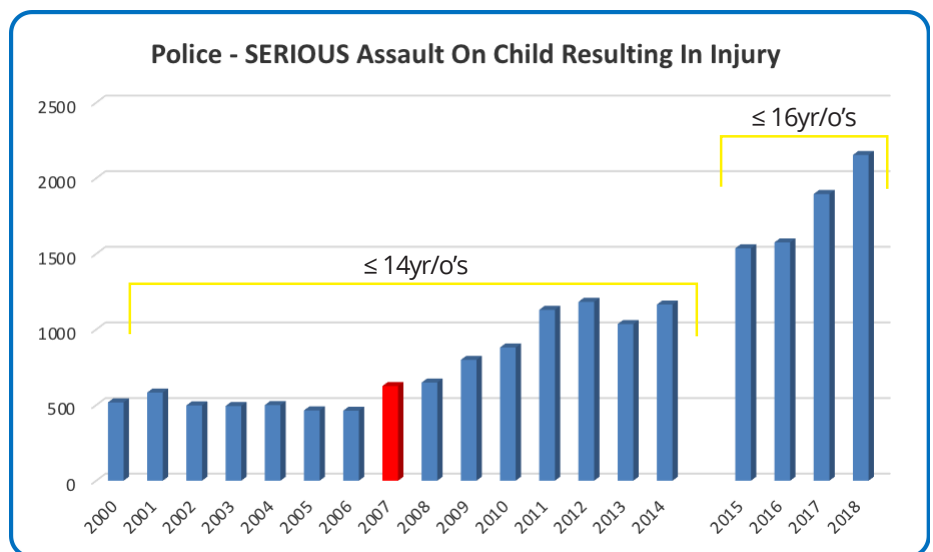
Some will argue the law should be left alone, and that any discussion of its success or failure is redundant. But any law – especially a controversial one like the anti-smacking law – should be able to withstand this type of scrutiny.

Even more importantly, it is crucial to assess whether the law may in fact be doing more harm than good.

At this stage it would appear that not only has the ban failed to reduce the harm perpetrated *against* children, but it has increased the harm inflicted *by* children.

Problems with the current law:

- Parents are **confused by the law**, both by the way it is worded and by conflicting messages from politicians who promoted it
- **Notifications of abuse** to government agencies continue to increase at alarming rates
- Successive governments have **failed to reduce physical abuse** as promised, and any government targets appear to have been abandoned altogether
- **Child homicides** continue to fluctuate with no sign of any long-term, sustained improvement.
- New Zealand continues to have one of the **worst abuse rates** in the OECD, and Maori are disproportionately represented
- We have **more children in care** (especially Maori)
- **Rates of physical abuse** (including **serious** physical abuse) found by both the police and Oranga Tamariki (OT) have increased significantly since the law was passed. It is important to note that *serious* assaults were *already* illegal before the law changed

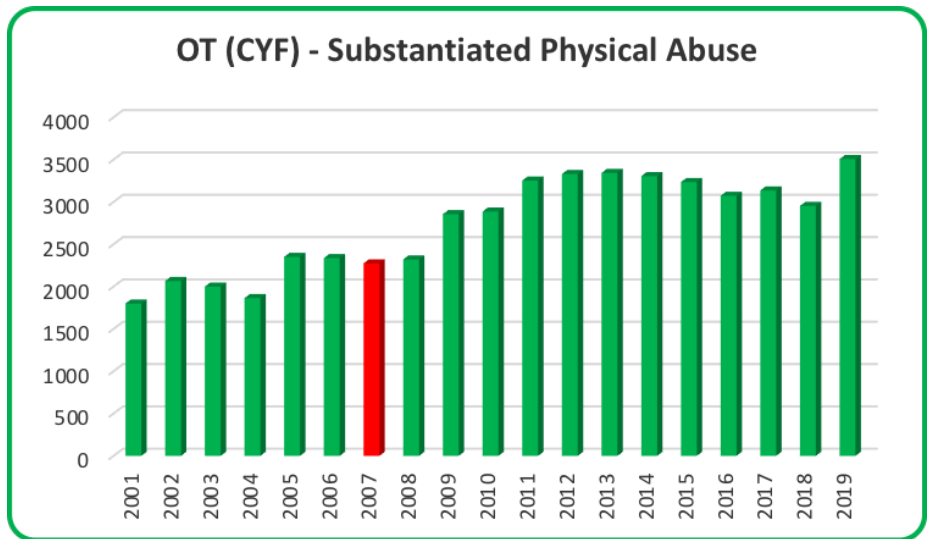


■ Anti-smacking law introduced

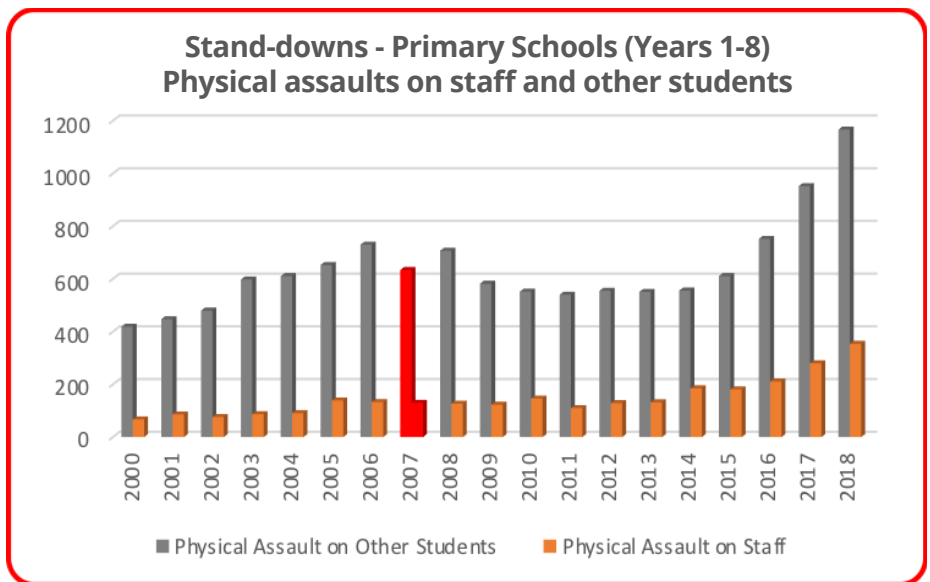
Source: Stats NZ - NZ Police

(Until 2014, physical child abuse was recorded by police via Statistics NZ regarding children up to the age of 14. From mid-2014 onwards, the recording system changed: incidents are now recorded for children up to the age of 16)

- There are significant, warranted concerns around **increasing levels of violence in schools by children**, including bullying and physical violence against principals and teaching staff
- There are disturbing trends in the **wellbeing of children**, including the high rates of self-harm, suicide, and emotional and behavioural problems
- While politicians claim the new law does not **criminalise “good parents”** for lightly smacking their children, a legal analysis finds this is inconsistent with the actual legal impact of the new Section 59
- Law firm Chen Palmer has also not been able to find any decision where the courts have, at sentencing, explicitly balanced the **long-term effect of the prosecution or conviction on the parent-child relationship** against the level of the physical discipline with which the parent is being charged
- **Recent polling** finds a significant proportion of the public continues to reject and disregard the law



Source: OIA from Oranga Tamariki, December 2019, 2001/03 data sourced from “Family Violence Statistics Report 2009” - Families Commission



Source: Ministry of Education

Violence against children continues to be a dark stain on the fabric of New Zealand society, and all New Zealanders are disturbed by the high rates of child abuse, but the anti-smacking law has not proven to be effective or warranted. Many New Zealanders predicted 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 in a non-abusive way with child abusers – a notion roundly rejected by Kiwis.**

It is clear to many that supporters of smacking bans were driven by political ideology rather than by common sense, good science and sound policy-making.

We can solve the problem of child abuse, but **we must be willing to confront the real issues:**

- drug and alcohol abuse
- family breakdown and conflict
- children not living with biological parents, weak family ties, low maternal age and low marriage rates
- poverty and stress

Criminalising good parents who simply want to raise law-abiding and responsible citizens is bad law-making. The government should amend the law to give certainty and clarity to parents, and to target real child abuse, not real parents.