

Ram Raid Offending and Related Measures Amendment Bill

Introduction:

We would like to thank the Justice Select Committee for the opportunity to submit on this Bill. The National Collective of Independent Women's Refuges (NCIWR) is a non-governmental organisation that had been delivering services to women, children, and whānau affected by family violence in Aotearoa for 50 years. As in any submission made by NCIWR, we represent the victims of family violence, specifically wāhine and tamariki, who are the primary groups subjected to and impacted by family violence.

In 2021/2022 children made up 50% of clients who accessed Women's Refuge safehouses across the country. It is well known that tamariki are among the most in need of protection from violence, however, children represent the biggest and arguably one of the least-served victim cohorts in Aotearoa. Family violence represents a pervasive social disease afflicting tamariki in Aotearoa, which will continue unimpeded without the mobilisation of effective support and intervention.

It has been widely reported that the children and young people who carry out ram-raid offending are more often than not victims of family violence themselves. This submission emphasises that all measures for reducing this offending by children and young people must therefore acknowledge their status and rights as children and their status and rights as victims of family violence. Without the acknowledgment of both, and the understanding that victimisation can precipitate offending, any proposed measures to ameliorate offending will ultimately fall short of their desired outcomes.

NCIWR has dedicated a large amount of its capacity over the last four years to understanding children's experiences of family violence – what they want and need as a result of family violence victimisation, and what supports their safety and future outcomes. The NCIWR research and policy team heard from 47 tamariki about what facilitates safety for them after victimisation. This research informed NCIWR's child-specific family violence advocacy pilot, running since 2021 in seven Refuges across the country. The pilot fills a conspicuous national service gap relating to children's safety from family violence. It is the first of its kind to offer intensive, ongoing, family violence specialist advocacy for children aged 5-12 years old as its primary function. Our submission is informed by both our research on children and violence, and the outcomes of the pilot evaluation.

Our position:

We support the protection of victims; no one deserves to have their lives impacted or their livelihoods destroyed by the offending of others. It is essential that victims of ram-raid offending are supported by the system. However, we strongly oppose this Bill as it impinges on the rights of children aged 12 and 13 years old. The Bill is overly punitive, and the harm caused to children as a result of it outweighs the overall (perceived) benefits. The Bill as it stands is not likely to reduce the probability of criminal offending – there is no evidence of similar measures (in Aotearoa or internationally) that show a positive impact on the overall wellbeing of or outcomes for children targeted in this way.

Children and family violence victimisation:

Family violence is a crime perpetrated against children. Children make up a significant proportion of the total victims of family violence in New Zealand each year. However, their experiences of family violence victimisation are often overlooked and underprivileged.

Exposing children to violence is recognised as a severe form of child abuse, irrespective of whether they are the primary or intended targets.¹ Tamariki are disadvantaged by perpetrators' decisions to

use violence against them or against their protective parents and have little power over the way this violence shapes their immediate and future safety or their life prospects.

The landscape of risk and harm that they face is oriented by perpetrators' past and future behaviours. Without adequate intervention, family violence undermines children's physical, social, and emotional wellbeing, and what futures are possible for them. When children are exposed to, or experience family violence, the result is a diminishing of their freedom, autonomy, dignity, and childhoods. Family violence, at its core, takes away from children. All victims of violence are deserving of support and safety when they are most at risk, especially when they are victimised in childhood.

[Links between family violence and youth ram raid offending:](#)

There is clear public interest in addressing ram-raid offending, especially by children and young people.

Whilst NCIWR firmly supports holding adult offenders to account, we submit that amending legislation to target a unique type of offending perpetrated by children, represents both a misguided attempt to limit the impacts of this offending, and a temporary and ineffectual solution to a bigger, more prominent, and wholly overlooked issue for children in Aotearoa – family violence.

The current reporting on ram-raiding has created public awareness about the connection between family violence and youth who engage in ram-raiding. For instance, the Police National Youth Team found that, of a sample of children and young people involved in ram-raid offending, over 95% were linked to at least one family harm event, prior to being labelled as either suspect or offender.

However, a brief review of the current reporting on the connection between family violence and youth who engage in ram-raiding, reveals that whilst the link is made to these children and family violence, they are rarely mentioned as victims. Relatedly, instead of reporting ram-raids in a way that explicitly addresses children's primary victimisation, the prevailing rhetoric diminishes children's rights to be kept safe from family violence as victims and leaves them at risk. It ignores the impacts of this violence on their lives and life trajectories. Much of the language positions them as 'present, but unaffected' or 'exposed but unimpacted', masking their tenuous and active survival through precarity and danger. For example, recent commentary includes mention of:

- "Exposure to violence in their homes";
- "Children linked to family violence";
- "[Child] has been at police family harm call-outs";
- "[Child] has come to police attention through family violence call-outs";
- "Brought up in a climate of family violence"; and
- "[Children] linked to between one and five family harm events".

In stark contrast to this 'missing' context and (non)labelling of 'victim', the label 'offender' is generously utilised. The media phrasing identified above reads very differently when extra context is offered – most of these children were 3 and 4 years of age when Police had to attend violent episodes at their homes because of the (often severe and ongoing) victimisation that both they and their safe caregivers experienced at the hands of violence adults.

Instead of recognising and addressing the family violence impacts on these children, media reports imply children are part of (and tarnished by) the family violence they were subjected to: violence that they had no control over, that they had no means of ending or developing genuine safety within, and for which they received no effective intervention that would bring about the privilege of a caregiving setting that they felt secure in and in which they could thrive.

Creating awareness of the link between experiencing family violence in childhood and ram-raid offending provides an opportunity to acknowledge and address this link. The Bill does not go far enough to address this link or proactively limit the impacts of this offending. As it currently stands, the Bill will not forestall the issues that it purports to. The impacts of family violence in the lives of children need to be targeted in response to ram-raid offending to offer solutions that effectively disrupt child and youth offending whilst holding to account those who use violence against children.

NCIWR's work with child victims of family violence:

Children are victims of family violence because someone was violent toward them. When young people use antisocial or offending type behaviour – this behaviour does not just appear out of nowhere, it comes from somewhere.

NCIWR is uniquely positioned to provide context about the early experiences of family violence for young people. Women's Refuge works with children who present at critical risk due to their victimisation. Intervention that targets their family violence victimisation highlights their status and needs as child victims.

NCIWR's pilot was able to intervene and support many young boys who had experienced severe and ongoing physical and emotional violence. Our child-specialist advocates worked alongside them and supported them with the goals that were meaningful to them, for example:

- *"He would like for us to give him hugs and support" – Goal of a boy, age 6*
- *"He is going to try and sleep with all the doors open so that his imagination doesn't make up monsters." – Goal of a boy, age 7*
- *"He would like me to continue to be kind to him" – Goal of a boy, age 10*

Young boys, when given the opportunity to safely express themselves and work through their experiences of victimisation, confided in staff that:

- *"I like being close to you, you make me feel safe" – Boy, age 9*
- *"[I need you to] support me in places I don't feel comfortable" – Boy, age 10*

These young boys (only a few years shy of the age of reported ram-raid offenders), far from being on a pathway to 'emboldened offender', were simply kids seeking safety from the violence that overshadowed their lives.

The below table shows the extent to which family violence impacts 5 – 12-year-olds. The tactics shaded in red represent those recognised as common precursors to family violence homicide, highlighting the severity (and associated risk) of family violence that perpetrators had already brought into children's lives.

Risk category captured for tamariki on Refuge child advocacy pilot	% of pilot clients
The perpetrator physically harmed the child/ren	49.3%
The perpetrator harmed their Mum while pregnant	46.7%
The perpetrator's abuse started/got worse during Mum's pregnancy	37.6%
The perpetrator took the child/ren, or threatened to	88.3%
The perpetrator threatened to kill or hurt the child/ren?	68.8%
The perpetrator harmed Mum in front of the child/ren	79.2%
The perpetrator used the children to try see or contact their Mum	53.2%
The perpetrator verbally abused their Mum in front of them	100%
The perpetrator used the children to find out details about Mum	41.5%
The perpetrator made the children feel afraid	100%
There is a protection order naming the child/ren and their Mum as protected persons	68.8%
There is a parenting order that directs who cares for the child and under what conditions	66.2%
The perpetrator breached the protection order in the four weeks preceding Mum's engagement with Refuge	57.1%
The perpetrator breached the protection order by making direct and unapproved contact with the child/ren	58.4%

The snapshot of risk data relating to the use of legal safety mechanisms in the lives of the pilot children also highlights how:

1. Their mums pursued state mechanisms of safety to protect their tamariki;
2. Their perpetrators circumnavigated or disregarded these mechanisms of safety to continue their violence;
3. The efficacy of protective state mechanisms was contingent on state actors' capacity (or willingness) to uphold and enforce them; and
4. Children rely on adults to effectively intervene to keep them safe from family violence and the enduring impacts of family violence.

Prevention measures:

Many of the child offenders of the crimes that this Bill targets are either current or recent victims of family violence – a crime for which they have not received justice. Victims deserving of protection include, as a priority, children subjected to the violence of a perpetrating adult.

Offenders should face consequences for their actions, however if these offenders are children who are themselves current victims, the legislative changes need to reflect the complexity of their situations by simultaneously targeting their family violence victimisation. NCIWR supports a welfare-based response and collective responsibility for criminal offending by children.

The adverse impacts of exposure to family violence are well-documented. However, unlike many other instances of trauma or adversity, the extent to which children's physical health, emotional wellbeing,

and social functioning are negatively impacted is highly dependent on whether the violence is permitted to continue in their lives.

The evaluation of NCIWR's tamariki pilot concluded that – *being and feeling safe are prerequisites for improved wellbeing: children's wellbeing is inherently promoted when their lives are safer*. Prevention measures for children therefore need to focus on keeping them safe from family violence, and restoring what has been lost because of family violence, through the use of purposeful child-specific family violence advocacy and support. Poor outcomes are *not* inevitable for tamariki exposed to family violence but are arguably a consequence of inadequate safety and support for victims at the time they need it most: in childhood.

Therefore, we submit that prioritising 'children's safety from family violence' in prevention measures to address offending with 'links' to family violence, will support better pathways to recovery, restoration, and healing.

ⁱ Gregory, A., Arai, L., Shaw, A., MacMillan, H. L., & Howarth, E. (2019). Children's experiences and needs in situations of domestic violence: A secondary analysis of qualitative data from adult friends and family members of female survivors. *Health and Social Care in the Community*, 28(2), 602–614. <https://doi.org/10.1111/hsc.12893>
Saunders, D. G., & Oehme, K. (2007). *Child custody and visitation decisions in domestic violence cases: Legal trends, risk factors, and safety concerns*. National Online Resource Centre on Violence Against Women. <https://www.courts.ca.gov/documents/BTB25-PreConDV-10.pdf>