

I want her to talk with me when I make a mistake ...

**Ending Corporal
Punishment of Children**

in South Africa



Save the Children
Sweden

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- a world which listens to children and learns;
- a world where all children have hope and opportunity.

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May 2005

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ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
CBO	Community-Based Organisation
CRC	UN Convention on the Rights of the Child
NGO	Non-Governmental Organisation
RAPCAN	Resources Aimed at the Prevention of Child Abuse and Neglect
SALRC	South African Law Reform Commission
UN	United Nations

I. INTRODUCTION

“I want her to talk with me when I make a mistake...”¹

As in so many other countries in the world, many children in South Africa suffer corporal punishment and other forms of humiliating and degrading punishment in the home, in the school and in different institutions.

Less than 20 countries worldwide have adopted legislation to prohibit corporal punishment of children. In addition, a number of countries have outlawed corporal punishment of children in schools and other institutions. The global movement to reverse the culture of corporal punishment and other forms of humiliating and degrading punishment of children is gaining momentum. It is based on a growing understanding of children as holders of rights, and the growing body of evidence from medical, educational and psychological authorities on the negative effects of corporal punishment and its ineffectiveness as a method of discipline.

Corporal punishment of children violates children’s human rights to physical integrity and human dignity, as upheld by the UN Convention on the Rights of the Child (CRC), the African Charter on the Rights and Welfare of the Child (ACRWC), as well as the South African Constitution.

It is the obligation of all states around the world to ensure that children’s right to a life free from violence, including corporal punishment and other forms of humiliating and degrading punishment, is protected. Children’s right to a life free from violence also extends into the private life and home of the child.

Defenders of corporal punishment suggest that children are different. But their differences – their dependence, developmental state and fragility – do not reduce their human rights or justify less protection from all forms of violence, including corporal punishment.²

This publication aims to provide information about corporal punishment and other forms of humiliating and degrading punishment of children in South Africa. It outlines international obligations to prohibit the corporal punishment of children and to engage in public education. It provides recommendations on steps to be taken by the government and civil society to ensure that the culture of corporal punishment and other forms of humiliating and degrading punishment of children is replaced by positive, non-violent forms of discipline based on respect for children’s rights.

In this publication, a child is referred to as a person below the age of 18 years in accordance with the CRC.

2. DEFINITION OF CORPORAL PUNISHMENT AND OTHER FORMS OF HUMILIATING AND DEGRADING PUNISHMENT OF CHILDREN

Save the Children identifies two categories of punishment of children that can occur separately or together, i.e. corporal or physical punishment, and humiliating or degrading punishment. Both forms of punishment constitute violations of children's rights.

Corporal or physical punishment of children and the threat of it includes hitting the child with the hand or with an object (such as a cane, belt, whip, shoe, etc.); kicking, shaking, or throwing the child; pinching or pulling their hair; forcing a child to stay in uncomfortable or undignified positions, or to take excessive physical exercise; and burning or scarring the child.

*"Sometimes my mommy or my daddy hit me, sometimes with their hand or sometimes with a belt."*³

Girl, Western Cape

Humiliating or degrading punishment of children takes various forms, such as psychological punishment, verbal abuse, ridicule, isolation, or ignoring the child.

*"He said, 'You stupid, I'll moer you'. He always talks like that. He swears a lot. He is insulting all the time."*⁴

Boy, Western Cape

It is important to note that there is no clear line between corporal punishment and humiliating or degrading punishment. Very often children perceive corporal punishment as also being humiliating or degrading.

*"She took out a belt in front of my brother and she started beating me up. She made me go to my friend's house. I was scared and I went there crying. When I got to the gate I wiped my tears and my eyes were still red and I was embarrassed that my friend could see me, that I was beaten at home."*⁵

Girl, Limpopo

Non-corporal forms of punishment, such as making children do heavy physical labour or staying in degrading or uncomfortable positions, also constitute corporal punishment.

In South Africa, a range of different words are used to describe the use of physical force against children. Common examples are hitting, slapping or smacking, 'a good beating', 'six of the best', a thrashing, or 'a good hiding' (in Afrikaans 'n goeie pak slae').

Very often adults are making statements such as, “I just gave my child a light smack. That is not child abuse, because I know what is best for my child. I only wanted to correct his/her behaviour”. All forms of corporal punishment of children, however light, constitute violence against the child. Corporal punishment is one form of violence against children, or child abuse. It is not a separate method of discipline used by parents, teachers or other care givers as they see fit. In today’s society, violence against women and elderly people are not accepted in any form. Why should it be different for children?

While corporal punishment is more visible, emotional punishment in the form of humiliating or degrading treatment is more difficult to identify and confront as forms of child abuse. Disciplining a child by sending him or her outside to stand in the sun for hours, undermining a child’s self-esteem or to deny a child food or clothing is as damaging as different forms of corporal punishment.

3. *WHY IS CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN WRONG?*

Over the last decades, the world has recognised that people are entitled to basic human rights. International and regional bodies such as the United Nations and the African Union have developed standards for the respect of people's basic human rights. Hitting and deliberately humiliating people violate their fundamental rights to respect for their physical integrity and human dignity.

Children are bearers of human rights from the moment of their birth, and they are entitled to physical integrity and human dignity in the same way as adults. Children are human beings that are simply smaller and more fragile than adults.⁶

Corporal punishment and other forms of humiliating and degrading punishment breach children's fundamental human rights to respect for human dignity and physical integrity. This has been confirmed in international human rights instruments such as the CRC and the ACRWC, as well as the South African Constitution (for further information see chapters 6 and 7).

Despite being in contradiction of international law, corporal punishment and other forms of humiliating and degrading punishment are in many instances still legalised and socially-accepted forms of violence against children. The low status of children in society and children's lack of power have prevented a complete prohibition of corporal punishment in many countries around the world, including South Africa.

In addition to breaching children's basic human rights, there is also a body of evidence from medical, educational and psychological authorities on the negative effects of corporal punishment of children.

Studies have shown a significant, positive correlation between the frequency of interpersonal violence experienced as a child and the approval of the use of interpersonal violence as an adult.⁷ A South African national household survey also found that parents who agreed with the corporal punishment of children were more likely to experience higher levels of partner violence than parents who disagreed with corporal punishment.⁸ There is strong evidence that corporal punishment places children at risk of physical injury, poorer mental health, impaired relationships with parents, weaker internalisation of moral values, anti-social behaviour, and poorer adult adjustment.⁹

In South Africa, interpersonal violence is widespread and conflicts are in many instances resolved by violent means. The use of corporal punishment on children contributes to a perception from an early age that violence is an appropriate response to conflict and unwanted behaviour. It teaches that it is acceptable for powerful persons to be violent towards the weak and to solve conflicts through violence.

A survey among children in South Africa indicated that the corporal punishment of children in school can elicit aggressive feelings, mostly directed at other children.¹⁰

"I beat the children because I was angry."

Boy, Western Cape

Research shows that corporal punishment is not an effective way to ensure change of behaviour and discipline among children. If corporal punishment 'works' as a deterrent, it should stop unwanted behaviour among 'difficult' children. However, it has been established that in schools where corporal punishment is used, the same learners are being beaten for the same offences over and over again. Classes with the fewest behavioural problems over time are run by teachers who are committed to non-violent and child-centred approaches to classroom discipline.¹¹

Corporal punishment works against the process of ethical development. It teaches children not to engage in a particular behaviour because they will be beaten. It does not teach them to consider the reasons and ethics for not behaving in a particular manner.¹²

It is also important to remember that a large number of children engage in unwanted behaviour due to practical problems, for example hunger, thirst, lack of rest due to having to walk long distances to school, stressful or abusive family situations, caring for a sick parent or taking care of siblings due to the HIV/AIDS pandemic or medical problems. By using a 'quick fix' such as corporal punishment and other forms of humiliating and degrading punishment, an adult might miss the opportunity to deal with the actual problem facing the child.¹³ This might lead to a situation where children's rights to food, health care and education are violated in addition to their right to physical integrity.

4. HOW COMMON IS CORPORAL AND HUMILIATING PUNISHMENT OF CHILDREN IN SOUTH AFRICA?

There is limited statistical information available on attitudes to and the use of corporal and humiliating punishment on children in different settings such as the home, the school and different institutions in South Africa. However, information on prevalence, provided below, indicates clearly that corporal punishment and other forms of humiliating and degrading punishment of children are widely practised in South Africa.

In 2003, the South African Social Attitude Survey, which was a nationally representative household survey, asked 952 parents with children about their attitudes to discipline and the use of corporal punishment. The survey found that 57% of the parents used corporal punishment on their children. Of the parents who used corporal punishment, 30% reported having used this form of punishment in the last month. Thirty-three percent of the parents used a belt or a stick. The survey indicated that the most common age of children who were smacked were three years of age, while the most common age of children who were beaten with a belt or another object were four years old.¹⁴

It further showed that greater proportions of Africans and whites used corporal punishment than other groups, but it was clear that people living in poverty, regardless of their ethnic background, were most likely to use corporal punishment. Women were the ones mainly administering corporal punishment. The main reason for this is that women have the major daily responsibility for children. Fewer younger parents administered corporal punishment than those who were older. This may be a promising sign of a change in attitudes and practises.¹⁵

A qualitative survey of 410 South African children – discussed in chapter 5 – also contains many examples of corporal punishment experienced by children in the home, with the exception of children from communities with the highest incomes and children from Indian communities, where almost no cases of corporal punishment were reported. A clear pattern also emerged from this study, with children of all ages and both genders being exposed to brutal forms of corporal punishment in lower income bands, i.e. children living in households with an income of less than ZAR 1 000 per month.¹⁶

“He hit me with fists, kicked me with safety boots and hit me with a sjambok. They were angry.”

Boy, Western Cape

Although corporal punishment of children in South African schools has been prohibited since 1996, different reports point to the fact that it is still practised by a large number of teachers as a way of disciplining learners.¹⁷ The survey of 410 children also highlights a significant number of instances where children have been exposed to corporal punishment in the school. Children described corporal punishment as most often being administered by a teacher with a ruler, stick or board duster on the hands.¹⁸

“I was making a noise and other children told her (the teacher) that I am crying and she called me and beat me again.”

Girl, Limpopo

There is also anecdotal evidence pointing to the fact that some teachers, who are legally prohibited to use corporal punishment, send a note home to the parent, asking the parent to administer corporal punishment on the child for something the child did at school.

Less information is available on the levels of attitudes to humiliating and degrading punishment of children in the country. However, the qualitative survey mentioned above indicates that children are frequently subjected to humiliating and degrading punishment in the home and at school. There are numerous statements by children on how they have been treated in a humiliating and degrading manner by parents and teachers, for example through verbal abuse, being made to hold humiliating positions for a long time, or do humiliating physical activities in front of the class. It is also interesting to note the close association between humiliating and degrading punishment and corporal punishment of children. Many children described corporal punishment as being humiliating, especially when administered in front of other people or when other people see the results.¹⁹

“There were problems at home. My father accused me of causing the problem between him and my stepmother. And my father said if they could divorce or separate I would be the cause of it. That really hurt me.”

Boy, Western Cape

Information about the use of corporal punishment and other forms of humiliating and degrading punishment of children in child care facilities is very limited. However, anecdotal evidence from a workshop organised by Save the Children Sweden suggests that these forms of punishment are practised by some housefathers and housemothers at different shelters and care facilities for children.

A nation-wide opinion poll of 1 200 South African children on the rights most violated in their lives, as well as the more recent survey with 410 South African children, found that boys experienced corporal punishment to a larger extent than girls. The latter survey also indicates that older girls might be subjected to humiliating and degrading punishment to a greater extent than boys, not least to control perceived sexual activities of teenage girls.²⁰

National surveys comprising both quantitative components and detailed interviews with adults and children on attitudes to and the use of corporal punishment and other forms of humiliating and degrading punishment of children should be undertaken in South Africa on a regular basis. Such surveys should not only cover these forms of punishment in the home and at school, but they should also investigate the situation in child care facilities, prisons and other institutions. This will make the extent of violence against children visible and also assist government and civil society to design appropriate interventions to promote non-violent forms of child-rearing.

5. CHILDREN'S VIEWS OF CORPORAL PUNISHMENT AND OTHER FORMS OF HUMILIATING AND DEGRADING PUNISHMENT

Research and surveys conducted both internationally and in South Africa show that corporal punishment in the home and at school is of major concern to many children. There is less information available on children's views of humiliating and degrading punishment, as well as their views on these forms of punishment in other settings, such as children's homes and prisons.

A clear pattern emerged from a number of studies with boys and girls in South Africa – mentioned below – where these children indicated that they would like a life free from corporal punishment and other forms of humiliating and degrading punishment. They would like parents and teachers to talk to them instead of beating them, and to use non-violent forms of discipline.

In 1992, a group of South African children was gathered to formulate the Children's Charter of South Africa. They suggested that:

“All children should have the right to freedom from corporal punishment at schools, from the police and in prisons and at the home.”²¹

In preparation for the report on the Children's Bill, the South African Law Reform Commission (SALRC) undertook consultations with children, who raised the matter of corporal punishment themselves. When asked what rights children should have (in addition to the rights which everyone has), an important common response was the right to be protected from harm. A number of children explicitly identified the right not to be beaten as being significant.²²

In 2002, Save the Children Sweden conducted a nation-wide opinion poll with a representative sample of 1 200 South African children. In the poll, children were asked what rights are most violated in their lives. They indicated that one of the most important violations of children's rights is the lack of protection from abuse, including corporal punishment from teachers, parents and other care givers such as uncles and brothers.²³

*“Parents, they should stop beating children.
They must learn a better way of dealing with children.”*
Girl in primary school

In 2004, a qualitative survey with 410 boys and girls aged 6-18 years from four provinces in South Africa explored children's experiences, views and feelings in relation to corporal punishment and other forms of humiliating and degrading punishment. The findings in this survey are complex, with variations in how children experience, perceive and respond to these forms of punishment, depending

on factors such as socio-economic status²⁴, age and gender. Within this complexity there are, however, some clear trends.²⁵

The study found that many boys and girls of all ages in South Africa experience corporal punishment in the home and at school, with the exception of children from environments with the highest incomes and children from Indian communities, where almost no cases of corporal punishment were reported.²⁶

With the exception of these two categories, boys and girls of all ages and from all different income categories received corporal punishment at home. Most children were beaten with a belt. Children from low income environments were exposed to the most severe forms of corporal punishment in the home and at school. The frequency of corporal punishment decreased as children got older. The study also found a general, but not definite pattern, of corporal punishment being more commonly experienced by children in rural than in urban areas.²⁷

“Sometimes my mommy or daddy hit me, sometimes with their hand or sometimes with a belt.”

Boy, Gauteng

“We were all sitting with my sisters, brothers and cousins. He asked how am I talking to him and he hit me. He hit me with a pipe that has wires inside. He hit all over the body.”

Girl, KwaZulu-Natal

It is important to underline that, although this study has looked at children from different income groups in South Africa, there are factors other than income that influence the use of corporal punishment and other forms of humiliating and degrading punishment of children, such as relative levels of stress and possibly associated relationship problems.

Corporal punishment is common in all schools situated in low income environments, irrespective of age and gender. Children described it as most often being administered with a ruler, stick or board duster, on the hands. The administration of corporal punishment varied from school to school in more affluent areas. Some schools had clear developed policies to implement the legal prohibition of corporal punishment, while other schools had not yet managed to get rid of the practise among teachers. Schools from high income areas generally did not seem to practise corporal punishment, but were instead using alternative, non-violent forms of discipline.²⁸

“The teacher hit me with a stick on the bum.”

Boy, Western Cape

“She gave me 5 strikes on the buttocks. My heart was so sore and my bums were painful. I couldn’t sit down the whole weekend. Every time I looked at the teacher I resented her.”

Girl, KwaZulu-Natal

Children across all different income levels, gender and age groups (with the exception of children from Indian communities) experienced humiliating and degrading punishment, but not as often as corporal punishment. The use of this kind of punishment seems to be more frequent in low income environments. In most cases, children described verbal abuse as humiliating and degrading.²⁹

“Then she shouted at me; she said that I always go untidy to school. I must look at other children, and she always swears when she talks. She calls us names.”

Girl, Gauteng

It seems that, where corporal punishment is common, humiliating or degrading punishment is not common on its own; though it often accompanies the use of corporal punishment. Many children in this study described corporal punishment as humiliating. It was particularly humiliating when administered in front of other people, or when people see the results of the punishment.³⁰

“One day, she hit me with ladies heel shoes on my hips and I didn’t want to go to school. My dad took me to school and I was very late and I felt embarrassed.”

Girl, Limpopo

One common form of humiliating punishment in school is to make children hold humiliating positions for a long period of time, or do humiliating physical activities in front of the class. In addition to being humiliating, it should also be viewed as a form of corporal punishment.³¹

“They also make us do motorbike (skuta). You bend you knees, stretch arms straight as if you are riding a motorbike and it is painful when you do it for a long time.”

Girl, Gauteng

In general, boys reported being subjected to corporal punishment to a greater extent than girls. It also seems that, as girls get older, they receive corporal punishment less often. Girls from low income environments seem to be exposed to humiliating and degrading forms of punishment to a larger extent than boys, not least as a strategy to control the perceived sexual activities of teenage girls.³²

“When we woke up she swore at me and told me that now I started to behave like ‘Phaga’, an animal that goes in the night. She said I am going to fall pregnant and there are lots of diseases outside there. She doesn’t talk nicely with me and she speaks loud so that everybody who passes next to my house should hear that she is swearing at me and I didn’t sleep at home. She will never sit down and talk to me like her child. She will tell me that I am ‘Kgeke’, a bitch, and that I started behaving like ‘Phaga’.”

Girl, Limpopo

Most children who experienced corporal punishment would prefer to be disciplined in a non-violent manner. It also became clear from the study that children would like teachers and parents to talk to them and explain what they did wrong instead of using corporal punishment or other forms of humiliating or degrading punishment. Generally, talking seems to be more important to girls than boys.³³

“I want her (mother) to talk to me, but nicely, not shouting.”

Boy, Gauteng

*“He (teacher) must ask me why I didn’t do my homework;
then I will explain to him.”*

Girl, Limpopo

There were also a few cases in the study where children, boys in particular, expressed acceptance of corporal punishment and could see no alternative to this form of punishment. One tragic explanation of this perception could be that these children live in an environment where violent forms of discipline are the norm. These children are so used to violent forms of discipline that they cannot imagine any forms of non-violent solutions.³⁴

Sadness and anger were the two most common feelings reported by children in response to corporal punishment and other forms of humiliating and degrading punishment. Anger was a more common reaction in school when the punishment was perceived as unfair and sadness was more common at home. Other reactions reported were crying, fear, being embarrassed, withdrawal and compliance. It is also worrying to note that a number of children reported aggressive behaviour, such as bullying or beating other children as a reaction to their own punishment.³⁵

“I was feeling sad. Why?”

Because she hit me with the belt and it was painful.”

Boy, KwaZulu-Natal

“So when my mom hit me, it feels like she doesn’t love me.”

Girl, Limpopo

“I felt like killing someone.”

Boy, Western Cape

6. SOUTH AFRICA'S INTERNATIONAL OBLIGATIONS

The UN Convention on the Rights of the Child (CRC) is an international convention, which covers the specific rights of children under the age of 18 years. All countries in the world except the United States of America and Somalia have ratified the CRC. By doing so, the countries have agreed to implement all obligations set out in the CRC in their respective countries. South Africa ratified the CRC in 1995.

Article 19 of the CRC protects children from all forms of physical and mental violence. It requires states to take:

“... all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”.

Furthermore, Article 37(a) provides that, *“...no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age”.*

Other CRC articles of importance to the protection of children from corporal punishment and other forms of humiliating and degrading punishment are:

- Article 3, which states that the best interest of the child shall be a primary consideration in all actions concerning children,
- Article 6, which requires states to ensure to the maximum extent possible the survival and development of the child,
- Article 28, which requires states to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention, and
- Article 40, which requires that children involved with the juvenile justice system are treated in a manner consistent with the promotion of the child's sense of dignity and worth.³⁶

The highest international authority for interpreting and monitoring the CRC, the Committee on the Rights of the Child, has interpreted the Convention to mean that all forms of corporal punishment of children are in contradiction with the CRC, be it in the family, in schools, or in other institutions. The Committee has also proposed that legal reforms be coupled with awareness-raising and education campaigns on positive discipline to support parents, teachers and others. States that have ratified the CRC have to submit reports to the Committee to describe how they are implementing the Convention.

In examining South Africa's first report on the implementation of the Convention in 2000, the Committee requested South Africa to prohibit by law the use of corporal punishment in the family and in care institutions. It furthermore requested South Africa to undertake measures to raise awareness on the negative effects of corporal punishment and change cultural attitudes towards it to ensure that discipline is administered in a manner consistent with the child's dignity and in conformity with the Convention.³⁷

The African Charter on the Rights and Welfare of the Child (ACRWC), which is a regional charter specific for Africa, also protects children from all forms of physical and mental abuse, thereby prohibiting all forms of corporal and humiliating punishment of children. Article 16 of the ACRWC provides that:

“States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse...”

South Africa ratified the African Charter in 2000. It is thus bound by the obligations laid down in the charter.

Article 7 of the International Covenant on Civil and Political Rights, has also been interpreted by the Human Rights Committee to protect children from corporal punishment.³⁸

In ratifying the CRC and the ACRWC, as well as other international human rights conventions, South Africa is obliged not only to prohibit by law all forms of corporal punishment of children in the family, school, care institutions and the juvenile justice system, but also to develop awareness and education campaigns to promote positive, non-violent child-rearing practises in the country.

7. SOUTH AFRICA'S NATIONAL LAWS

The Constitution of South Africa is one of the more progressive constitutions in the world. It protects people's civil and political rights as well as their social and economic rights. It contains a specific section on children. In line with South Africa's international obligations, the Constitution in Section 12 in the Bill of Rights states that everyone has the right to be free from all forms of violence from either public or private sources; not to be treated or punished in a cruel, inhuman or degrading way; and that everyone has the right to bodily and psychological integrity. Section 10 confirms the right to human dignity.

These provisions are also for the protection of children, since Section 9 sets out that everyone is equal before the law and that discrimination on the basis of age is prohibited. Furthermore, Section 28 of the Bill of Rights protects children from neglect, maltreatment, abuse and degradation and states that a child's best interest is of paramount importance in every matter concerning the child. It is also important to note that Section 39 of the Constitution provides that a court must consider international law when interpreting the Bill of Rights.

The Constitutional Court has considered the issue of corporal punishment of children in two cases. In the first case the Constitutional Court declared judicial corporal punishment to be in contradiction of the constitutional right to protection from cruel, inhuman and degrading treatment, as well as the right to dignity.³⁹ In the second case, the Constitutional Court upheld the prohibition of corporal punishment in schools in the Schools Act.⁴⁰

All forms of corporal punishment of children in South Africa – be it in the family, in school or other institutions – are thus arguably in contradiction of the constitutional protection of children's rights to bodily integrity, protection from violence and abuse, and everyone's equality before the law.

In line with the Constitution, South Africa has prohibited corporal punishment of children in all aspects of public life, i.e. as a sentence by the court, in prisons, in child care institutions and at school.

Following the Constitutional Court ruling that judicial corporal punishment was unconstitutional, the Abolition of Corporal Punishment Act⁴¹ was enacted. This Act repealed all statutory provisions or legislation that authorised the imposition of corporal punishment by courts of law, including courts of traditional leaders. This means that a court of law or a court of traditional leaders cannot order corporal punishment of an adult or a child as a form of sentence. It seems like this prohibition is upheld within the judicial system. It is not clear to what extent courts of traditional leaders are adhering to the law.

Although the Correctional Service Act⁴² does not contain an explicit provision related to the prohibition of corporal punishment in prisons, the use of corporal punishment

as a disciplinary measure in South African prisons in respect of civil debtors was abolished in 1996 by the Correctional Services Second Amendment Act (Act 79 of 1996).

Corporal punishment of children in children's homes, schools of industry and reform schools is also prohibited, as is corporal punishment imposed by foster parents on foster children within their care. This has been achieved through regulations under the Child Care Act (Act 74 of 1983). These regulations also protect children from:

- punishment such as humiliation or ridicule;
- deprivation of basic rights and needs such as food, clothing, shelter and bedding;
- isolation from service providers and other children;
- verbal, emotional or physical harm;
- assignment of inappropriate or excessive work; or
- excessive exercise as behaviour management by any person in a children's home, place of safety, school of industries, children's shelter or by a foster parent.⁴³

Corporal punishment in schools has been prohibited since 1996 through the South African Schools Act⁴⁴, while the National Education Policy Act provides that "no person shall administer corporal punishment or subject a student to psychological or physical abuse at any educational institution".⁴⁵ As mentioned above, the Constitutional Court has also upheld the South African legislation prohibiting the use of corporal punishment in schools.

The South African government has taken a number of measures to implement the prohibition of corporal punishment in schools. Staff members have been appointed at the national and provincial Departments of Education to ensure adherence to the prohibition within the educational system. The national department has also published a manual for teachers on alternatives to corporal punishment, which has been distributed widely together with a guide for persons facilitating training on the manual. Training of a number of teachers as trainers of their peers on alternatives to corporal punishment has also been initiated. It now seems that the prohibition to administer corporal punishment on learners is well-known within the school system.⁴⁶

However, knowledge about the legislation does not always result in behaviour change among teachers. As mentioned in chapter 5, corporal punishment and other forms of humiliating and degrading punishment are still widely used in South African schools. It seems that the main reasons for this are linked to a lack of understanding of the human rights framework protecting children, as well as of the harmful effects of corporal punishment of children, among teachers and parents. A large number of teachers have not been reached by the training on alternatives to corporal punishment and they are not equipped with skills to manage discipline in the classroom through non-violent means.⁴⁷

Another obstacle to the successful implementation of the ban on corporal punishment at school is that parents are still allowed to use corporal punishment on

their children. The legality of corporal punishment in the home creates confusion and justification for the continued use of corporal punishment by teachers to discipline children.

In order to ensure that children are protected from corporal punishment in schools, additional financial and human resources need to be allocated to ensure that teachers receive training on children's rights and on alternatives to corporal punishment. It is also important that individual schools create environments where educators can support each other in developing new, non-violent methods to keep discipline in the classroom. In this context it is important to ensure that the attitudes of principals and senior teachers are changed, since they act as important role models and agents of change in schools. In-depth training on children's rights and alternatives to corporal punishment should also form part of the curricula of teacher training institutions to a greater extent than is the case today. In taking a holistic approach to child-friendly methods of child-rearing, parents and communities should also be educated on children's rights and non-violent, positive forms of disciplining children.

Parents are still allowed to impose corporal punishment on their children. This creates the inconsistent situation that, for now, parents may legally impose corporal punishment on their biological children and children that they have adopted, but not upon children whom they are fostering.

The general rule is that a parent may inflict moderate and reasonable chastisement, including corporal punishment, on a child provided that this is not done in a manner offensive to good morals, or for other motives than correction and admonition. If a parent exceeds the bounds of moderation or acts from improper or ulterior motives or from a sadistic propensity, he or she can face both criminal and civil liability. A parent charged with assaulting his or her child can possibly avoid being held liable for using corporal punishment on the child by raising the defence of reasonable chastisement of the child. The court will then decide whether the use of corporal punishment in that specific case was reasonable and, if so, the parent will go free from charges of assault.⁴⁸

A new comprehensive Children's Act, which will replace the Child Care Act, is currently being developed in South Africa. This law reform process brought the right of parents to use corporal punishment under the spotlight. In its report to the Minister of Social Development, and in a first draft of the Children's Bill, the SALRC recommended that the defence of reasonable chastisement currently available to parents should be abolished in the new Act. This would indirectly prohibit corporal punishment of children in the home. The SALRC also recommended that the government embarks on awareness-raising campaigns to influence public opinion on this matter. However, the Department of Social Development has removed the section on corporal punishment from the Bill. The Children's Bill, currently before Parliament (May 2005), does not contain any provision on corporal punishment.

The aim of prohibiting corporal punishment and other forms of humiliating and degrading punishment, including in the home, is to send a clear message that

corporal punishment of children is wrong, and to provide children with equal protection under the law. The aim is not to criminalise parents. This is very seldom in the interest of the child, because of their dependent status, and should only be used as a last resort intervention. In countries where corporal punishment is outlawed, there have been some disciplinary actions against teachers and child care workers who persist in hitting children. In relation to the family home, these laws are about setting standards and changing attitudes, not prosecuting parents or dividing families.

By ratifying the CRC and ACRWC, South Africa has committed itself to ensure children's rights to equal protection from violence and abuse and to take legislative measures to prohibit all forms of corporal and humiliating punishment of children. Furthermore, the South African Constitution is clear in its message that all children should be protected from any form of violence and abuse, and that their human dignity should be protected. The existence of laws or special defences in laws excusing any form of corporal punishment of children thus contravenes the spirit and letter of the Constitution, as well as of international obligations on human rights.

South Africa currently has an opportunity to act on its commitments to children's rights by including a clause in the Children's Bill that prohibits corporal punishment and other forms of humiliating and degrading treatment of children in all forms, and including in the home. The Bill should also spell out the need for government to initiate public education and awareness-raising to change attitudes to corporal punishment of children and provide teachers, parents and other care givers with alternative, non-violent means of disciplining children. The Children's Bill should abolish the defence of reasonable chastisement currently available to parents.

Legislation on its own will not end the use of corporal punishment. To achieve this, legal reform has to go hand-in-hand with awareness-raising and public education to change attitudes and to promote positive, non-violent forms of discipline. However, legal reform is essential to send a clear message that corporal punishment is no longer an acceptable form of child-rearing. This is a key issue on which politicians need to lead, and not follow, public opinion. Research shows that public attitudes change rapidly when legal change is accompanied by awareness-raising and education. As long as the law allows corporal punishment, it will be used as a defence to continue a practise that infringes on children's rights.

8. FREQUENTLY USED ARGUMENTS JUSTIFYING CORPORAL PUNISHMENT

There are certain ‘defences’ that are commonly raised by parents, other care givers and teachers when corporal punishment is challenged. This chapter suggests answers to these commonly-raised arguments.⁴⁹

Corporal punishment is a necessary part of upbringing and education. Children learn from a smacking or a beating to respect their parents and teachers, to distinguish right from wrong, to obey rules and work hard. Without corporal punishment children will be spoilt and undisciplined.

Children need discipline, and particularly need to learn self-discipline. But corporal punishment is a very ineffective form of discipline. Research has consistently shown that it rarely motivates children to act differently, because it does not bring an understanding of what they ought to be doing, nor does it offer any kind of reward for being good. The fact that parents, teachers and others often have to repeat corporal punishment for the same misbehaviour by the same child testifies to its ineffectiveness. Smacking, spanking and beating are poor substitutes for positive forms of discipline, which, far from spoiling children, ensure that they learn to think about others and about the consequences of their actions. In the countries where corporal punishment has been eliminated through legal reform and appropriate public education, there is no evidence to show that disruption of schools or homes by unruly children has increased: the sky does not fall if children cannot be hit. Corporal punishment may lead children to fear rather than respect their parents or teachers. Do we really want children to learn to ‘respect’ people who use violence to sort out problems or conflicts?

Corporal punishment may be wrong, but it is a trivial issue compared to more important aspects of children’s rights, such as protecting children from HIV/AIDS, poverty and sexual abuse. Why should ending it be a priority?

Where millions of children suffer from a lack of adequate food, shelter, medical care and education, even those most concerned with children’s rights may argue that corporal punishment is a relatively minor problem that should await better times. But human rights issues do not lend themselves to a sequential approach, as the CRC recognises. Pressure to end corporal punishment should be an integral part of advocacy for all children’s rights. Refraining from hurting and humiliating children does not consume, or distort the deployment of, resources. When asked, children identify ending corporal punishment as an issue of great importance to them. Just as challenging routine violence against women has been a central part of women’s struggle for equality, so it is with children. Challenging corporal punishment is fundamental to improving children’s status as people and asserting their rights to participation, as well as protection.

Many parents in our country are raising their children in desperate conditions, and teachers and other staff are under stress from overcrowding and lack of

resources. Forbidding corporal punishment would add to that stress and should wait until these conditions have improved.

This argument is a tacit admission of an obvious truth: corporal punishment is often an outlet for the pent-up feelings of adults rather than an attempt to educate children. In many homes and institutions adults urgently need more resources and support, but however real their problems may be, venting them on children cannot be justified. Why should children wait for this basic protection? Nobody argues that we should wait for 100% employment and an improvement in men's living conditions before we challenge domestic violence against women. In any case, hitting children is an ineffective stress reliever. Adults who hit out in bad temper often feel guilty; those who hit as a conscious strategy find they have upset or angry and resentful children to cope with. Life in homes and institutions where corporal punishment has been abandoned for more positive discipline is much less stressful for all.

I was hit as a child and it didn't do me any harm. On the contrary, I wouldn't be where I am today if it were not for my parents and teachers physically punishing me.

Adults usually hit children because they were hit as children: children learn from and identify with their parents and teachers. It is pointless to blame the previous generation for hitting children because they were acting in accordance with the general culture of the time; nor should the bonds of love and gratitude which children have towards their elders be denied. However, social attitudes change over time. There are plenty of examples of individuals who were not hit as children becoming successful as adults, and even more examples of individuals who were hit who failed to fulfill their potential in life.

Schools need corporal punishment as a last resort - a deterrent to discourage bad behaviour and encourage good work.

If corporal punishment is available as a sanction, it will be used. And because it is not effective, it will tend to be used repeatedly on a minority of students. If it is regarded as a 'last resort', it may well lead students to regard other, more positive forms of discipline as unimportant and so render them ineffective. Corporal punishment teaches children nothing positive, nothing about the way adults want them to behave. On the contrary, it is a potent lesson in bad behaviour. Children do not learn well when they are distracted by fear, and corporal punishment has been shown to increase school drop-out rates significantly.

Parents' right to bring up children as they see fit should only be challenged in extreme cases.

The CRC replaces the concept of parents' rights with "parental responsibilities" (which of course carry certain rights), including the responsibility to protect the rights of children themselves. The assertion of children's rights seems an unwarranted intrusion to people accustomed to thinking of children as parents' possessions, but children are recognised as individuals entitled to human rights standards along with everyone else. Human rights do not stop short at the door of the family home. Other forms of domestic violence – including partner violence – are already subject to social control and are unlawful in almost every society. It is quite wrong that

children, the smallest and most vulnerable of people, have to wait until last for protection. Given traditional attitudes to children, many parents feel threatened by any attempt to change the *status quo*. This is why any change in the law needs to be accompanied by public and parent education to promote positive, non-violent forms of discipline.

There is a big difference between a vicious beating and corporal punishment administered in a controlled way by a parent or a teacher. This is not dangerous, causes little pain and can not be called abuse. Why should it be outlawed?

Everyone, including children, has a right to respect for their human dignity and physical integrity. People would no longer get away with condemning ‘violence’ against women, but continuing to defend ‘little slaps’ of women. In any case, ‘minor’ corporal punishment can cause unexpected injury. Hitting children is dangerous because children are small and fragile (much corporal punishment in the home is targeted at babies and very young children).

Ruptured eardrums, brain damage and injuries or death from falls are the recorded consequences of ‘harmless smacks’. There is a large body of international research suggesting negative outcome from corporal punishment. These are some of the conclusions:

Escalation: mild punishments in infancy are so ineffective that they tend to escalate as the child grows older. The little smack thus becomes a spanking and then a beating. Parents convicted of seriously assaulting their children often explain that the ill-treatment of their child began as ‘ordinary’ corporal punishment.

Encouraging violence: any corporal punishment carries the message that violence is an appropriate response to conflict or unwanted behaviour. Aggression breeds aggression. Children subjected to corporal punishment have been shown to be more likely than others to be aggressive to siblings; to bully other children at school; to take part in aggressively anti-social behaviour in adolescence; to be violent to their spouses and their own children; and to commit violent crimes. National commissions on violence in the United States of America, Australia, Germany, South Africa and the United Kingdom have recommended ending all corporal punishment of children as an essential step towards reducing all violence in society.

Psychological damage: corporal punishment can be emotionally harmful to children. Research especially indicts messages confusing love with pain, anger with submission: “I punish you for your own sake”, “I hurt you because I love you”, and, “You must show remorse no matter how angry or humiliated you are”.

I only smack my children for safety - for their own sake they must learn about danger.

If a child is crawling towards a hot oven, or running into a dangerous road, of course you must use physical means to protect them – grab them, pick them up, show them and tell them about the danger. But if you raise your hand to hit them, you are wasting crucial seconds and – more important – by hurting the child,

you are confusing the message the child gets about the danger, and distracting their attention from the lesson you want them to learn. As adults, we have a clear responsibility to remove as far as possible objects of danger to children in their homes and schools.

This is a white, Euro-centric issue. Corporal punishment is part of my culture and child-rearing tradition. Attempts to outlaw it are discriminatory.

No culture can be said to 'own' corporal punishment. All societies have a responsibility to disown it, as they have disowned other breaches of human rights that were part of their traditions. The CRC upholds all children's right to protection from all forms of physical or mental violence without discrimination on grounds of race, culture, tradition or religion. Corporal punishment of children is now being challenged in many parts of the world. School and judicial beatings have been outlawed in some states on all continents.

Zulu, Xhosa and other African cultures seem to be replete with sayings which suggest that corporal punishment of children is not the preferred child-rearing practise.⁵⁰

"You don't build a family through a stick."

Traditional Zulu saying

My religion requires the corporal punishment of children.

People are entitled to freedom of religion only insofar as the practise of their religion does not break the law or infringe human rights. In none of the world's great religions does the word of God require children to be beaten. Phrases such as 'spare the rod and spoil the child' do occur in some holy books, but not as a doctrinal text. Sayings which endorse peaceful solutions and kind forms of child-rearing can be found in equal measure to punitive sayings in all religious scriptures. In every faith there will be prominent leaders who denounce all violence to children. Attempts by schools run by particular religious groups to make a special case for retaining corporal punishment have been rejected by courts, including South Africa's Constitutional Court and the European Court of Human Rights.

If the corporal punishment of children is outlawed or criminalised, it will result in outrageous judicial or disciplinary intervention. Children will be encouraged to report their parents to the police.

There have been some disciplinary actions against teachers and child care workers who persist in hitting children in countries where corporal punishment was outlawed. In relation to the family home, these laws are about setting standards and changing attitudes, not prosecuting parents or dividing families. Child protection becomes more straightforward once confusing legal concepts of 'reasonable chastisement' or 'lawful correction' are abandoned. Research shows that parents seek help earlier when they recognise that hurting their children is socially and legally unacceptable. Welfare services recognise that children's needs are as a rule best met within their families, and provide parents with help and support rather than punitive interventions.

Banning corporal punishment will just lead to children being treated in more horrible ways - emotional abuse, or humiliation or locking them up.

Children must be protected from all forms of humiliating and inhuman punishment, not only corporal punishment. Parents, other care givers and teachers often need guidance on alternatives to such punishment. The starting point is not to replace one form of punishment with another, but to see discipline as a positive and not punitive process, part of the communicative relationship between adult and child. 'Good' discipline – which must ultimately be self-discipline – depends on adults modelling and explaining positive behaviour. It also depends on having high expectations of children's willingness – and realistic expectations of their developmental ability – to behave positively, and rewarding their efforts with praise, companionship and respect. Furthermore, schools must develop their behaviour codes and disciplinary systems in co-operation with students. The imposition of arbitrary, adult-designed rules and automatic sanctions will not encourage self-discipline.

This country is a democracy but there is no democratic support for ending corporal punishment. If there was a poll on the issue, a huge majority would support retaining corporal punishment.

Representative democracies are not run by popular referenda. When elected politicians are drawing up new laws or a new constitution, they may need to make a number of unpopular decisions, based on human rights principles and informed arguments. As with the abolition of capital punishment, proposals to end the corporal punishment of children never enjoy popular support before they are implemented. But if the reforms are accompanied by appropriate public education, attitudes and practise will rapidly change. This argument is also based on adult perspectives. If children were allowed to vote on this issue, there would be a strong support for the prohibition of corporal punishment.

9. ALTERNATIVES TO CORPORAL PUNISHMENT AND OTHER FORMS OF HUMILIATING AND DEGRADING PUNISHMENT

Children need discipline, and particularly need to learn self-discipline. But in addition to infringing on children's rights to human dignity and physical integrity, corporal punishment and other forms of humiliating and degrading punishment are ineffective forms of discipline (as discussed in chapter 3). Smacking, spanking, beating and humiliation are poor substitutes for positive forms of discipline which, far from spoiling children, ensure that they learn to think about others and about the consequences of their actions. In the countries where corporal punishment has been eliminated through legal reform and appropriate public education, there is no evidence to show that the disruption of schools or homes by unruly children has increased.⁵¹

It is also clear that most South African children who experience corporal punishment prefer to be disciplined in a non-violent manner. Children want teachers and parents to talk to them and explain what they did wrong instead of using corporal punishment or other forms of humiliating or degrading punishment.⁵²

In addition to law reform, the challenge in South Africa is thus to increase awareness among adults about children's basic right to be protected from corporal punishment and other forms of humiliating and degrading punishment, and about the ineffectiveness of these forms of punishment. Adults should be equipped with alternative models of child-rearing that are based on positive and non-violent forms of discipline. It is also important to ensure that corporal punishment is not replaced with humiliating and degrading punishment of children.

In view of this and in line with recommendations by the UN Committee on the Rights of the Child, the South African government should initiate and support public awareness and education campaigns to promote positive, non-violent methods of child-rearing. This could be done in close collaboration with NGOs and CBOs working for children's rights, political and traditional leaders, faith-based organisations, educational institutions and international donor organisations. Children themselves could play an important role in these efforts. However, before embarking on awareness and education campaigns, the government needs to secure financial and human resources to implement a programme that can be sustained in the long-term. The media could also become a key partner in campaigns to raise awareness of children's rights and alternative, non-violent forms of discipline.

It is also important to keep in mind that discipline is an ongoing process. There are no 'quick fixes' to develop children into human beings with self-discipline and respect for other human beings. Since children are individuals with individual characteristics and needs, it is important to find alternatives that are suitable for the

individual child. Below are a few general hints and suggestions on alternatives to corporal punishment and other forms of humiliating and degrading punishment.⁵³

- Give praise when children obey or when they do things well. This encourages children to model their behaviour on positive reinforcement, and it encourages them to learn self-discipline. Praise costs nothing, and even rewards need not cost vast amounts of money: they could range from simple treats like telling the child a story at bed-time to allowing the child to visit a favourite friend or relative.
- Practise what you preach. If your child is not allowed to use dirty language or to swear, neither should you.
- Be realistic in what you expect from children at different ages. There is no point in punishing a baby for crying because he or she is hungry, or punishing a two-year-old who runs into the road in front of cars. Rather keep children safe by removing the possibility of physical danger: make sure your baby cannot reach the fire or the paraffin bottle, hold your child's hand when you walk in the road.
- Encourage children to solve their own problems, as they often can provide answers that will result in an acceptable compromise. For instance, a useful technique with older children is to use 'restorative justice' practises, which are well-known in African culture. 'Restorative justice' aims to involve both 'victim' and 'offender' in meeting together to devise a plan on how to repair harm caused or hurt relationships. At the same time, plans to prevent future misbehaviour can also be developed by all concerned parties. These techniques have been successfully used by school governing bodies seeking alternative punishments in the school system in South Africa.
- Do not use threats or shout at children. It is better if children do as you ask because they understand the reasons why, rather than because they are frightened or bullied.
- Try and use 'good' words about your child. Naming, bad-mouthing and humiliation have been shown to lead to a lower self-esteem, and can become self-fulfilling prophecies (i.e. you are just lazy/stupid/fat/bad).
- Negotiate a compromise, even if you have to reconsider your own views. Think: how important is this? Does it affect the child's safety? Will anyone be hurt if I compromise? Is this important enough to matter in ten years' time?
- Use guidance and counselling methods, especially with older children. If needed, call on a relative with whom the child has a special relationship, or an older person in the family or community whom the child respects. Ask this person to discuss the negative effects of the child's behaviour with him or her, and to give guidance on what the child's expectations are.
- Children learn by doing, therefore give the child a non-abusive task to perform, preferably one that is related to what the child has done wrong. A child who has to fix, clean or tidy something that he or she has broken or dirtied will be less likely to repeat that behaviour in future.

10. CONCLUSION AND RECOMMENDATIONS

In line with international and regional human rights treaties such as the CRC and the ACRWC, there is now an international move towards abolishing all forms of corporal and humiliating punishment of children whether in care institutions, juvenile justice systems, schools or within the family.

In addition to infringing on children's basic human rights, there is also a body of evidence from medical, educational and psychological authorities on the negative effects of corporal punishment and other forms of humiliating and degrading punishment of children.

In South Africa, interpersonal violence is widespread and conflicts are in many instances resolved by violent means. The use of corporal punishment on children contributes to a perception from an early age that violence is an appropriate response to conflict and unwanted behaviour. It teaches that it is acceptable for powerful persons to be violent towards the weak and to solve conflicts through violence.

Corporal punishment and other forms of humiliating and degrading punishment in the home and at school are of major concern to many South African children. Boys and girls in South Africa would like a life free from corporal punishment and other forms of humiliating and degrading punishment. They would like parents and teachers to talk to them instead of beating them, and to use non-violent forms of discipline.

In ratifying the CRC and the ACRWC, as well as other international human rights conventions, South Africa is obliged not only to prohibit by law corporal punishment and other forms of humiliating or degrading punishment of children in the family, school, care institutions and the juvenile justice system, but also to develop awareness and education campaigns to promote positive, non-violent discipline of children.

South Africa has taken significant measures to implement its obligations under international law to ensure that South African children can live a life free from corporal punishment. The Constitution arguably protects children from all forms of corporal punishment and other forms of humiliating and degrading punishment by ensuring children's rights to bodily integrity, protection from violence and abuse and everyone's equality before the law. Corporal punishment of children in public life, i.e. as a sentence by the court, in prisons, in child care institutions and at school, has also been abolished.

However, parents are still allowed to impose corporal punishment on their children as a method of child-rearing, and 57% of parents in South Africa are still using it when disciplining their children.

The prohibition to administer corporal punishment on learners seems to be well-known within the South African school system. However, knowledge about the

legislation has not always resulted in change of behaviour among teachers. Corporal punishment and other forms of humiliating and degrading punishment are still widely used in South African schools. It seems that the main reasons for the persistence of this practise in schools are linked to a lack of understanding among educators and parents of the human rights framework protecting children; the harmful effects of corporal punishment on children; and the lack of skills to manage discipline in the classroom through positive, non-violent measures.

Legislation will not end the use of corporal punishment on its own. To eliminate the use of corporal punishment legal reform has to go hand-in-hand with awareness-raising and public education to change attitudes and to promote positive, non-violent forms of discipline.

It is recommended that the following steps are taken in South Africa to ensure children's rights to a life free from corporal punishment and other forms of humiliating and degrading punishment:

Law reform

The South African government should include an explicit prohibition of all forms of corporal punishment and other forms of humiliating or degrading punishment of children, including corporal punishment administered by parents, in the Children's Bill now before Parliament. The Children's Bill must also repeal the existing common law defence of reasonable chastisement available to parents. By taking these measures all forms of corporal punishment would be prohibited by law in line with South Africa's international obligations. It would also provide a clear basis for awareness-raising and training.

Awareness-raising and public education

The South African government should initiate and support public awareness and education campaigns to promote positive, non-violent methods of child-rearing. This could be done in close collaboration with NGOs and CBOs working for children's rights, political and traditional leaders, faith-based organisations, educational institutions and international donor organisations. Children themselves could play an important role in these efforts. Before embarking on awareness and education campaigns, the government needs to secure financial and human resources to implement such a programme. In line with this, the Children's Bill before Parliament should reinstate the paragraph requesting the Department of Social Development to take all reasonable steps to ensure that public education and awareness-raising programmes on non-violent methods of child-rearing are implemented across the country.

In order to ensure that children are protected from corporal punishment in schools, the South African government needs to allocate additional financial and human resources to ensure that a larger number of teachers receive training on children's rights and alternatives to corporal punishment. It should encourage individual schools to create environments where teachers can support each other to develop innovative, non-violent ways to keep discipline in the classroom.

It should be explored if teacher training institutions could provide more focus on concepts such as children's rights, information about the prohibition of corporal punishment of children in South African schools, and ensure extensive training on how teachers can manage classroom discipline in a positive, non-violent manner.

The South African government, children's rights organisations and the media should strengthen efforts to create an understanding of and respect for children's rights in general. It is less likely that adults will use corporal punishment and other forms of humiliating and degrading punishment of children in a society where the understanding of and respect for children's rights are well-developed.

Media

The media could play an important role to raise awareness on children's rights in general, including the rights of children not to be exposed to corporal punishment and other forms of humiliating and degrading punishment. It could also become a key partner in campaigns to raise awareness on alternative, non-violent forms of discipline. It could play an important role in monitoring how the government fulfills its obligations under the CRC, the ACRWC and the South African Constitution.

Children's participation

Children have the right to be involved in processes and decisions that affect them. Children can provide valuable information and opinions, which should be considered when developing and implementing legislation and interventions to abolish corporal punishment and other forms of humiliating and degrading punishment of children. Children could also play an active part in the implementation of these interventions.

Research

National surveys comprising both quantitative components and detailed interviews with adults and children on attitudes to and the use of corporal punishment and other forms of humiliating and degrading punishment of children should be undertaken in South Africa on a regular basis. Such surveys should not only cover these forms of punishment in the home and at school, but they should also investigate the situation in child care facilities, prisons and other institutions. This will make the extent of violence against children visible and also assist government and civil society to design appropriate interventions to promote non violent forms of child-rearing.

Definitions

Different stakeholders working for the abolishment of corporal punishment need to agree on a definition of this form of punishment that takes into account humiliating and degrading punishment of children.

Monitoring

The government must ensure that effective measures are in place to monitor adherence to laws prohibiting corporal punishment in different settings.

The South African Human Rights Commission could play an increased role in creating awareness to reverse the culture of corporal punishment, but also to monitor the government's compliance with international obligations and national laws in this area. The Commission is also authorised to receive individual complaints where a person's rights as set out in the Bill of Rights in the Constitution have been violated. It should be explored how this individual complaints mechanism could be made known and accessible to children.

Civil society can play an important role not only in assisting the government with training and awareness-raising on alternatives to corporal punishment and other forms of humiliating and degrading punishment, but also by advocating for law reform and by monitoring the government's compliance with international and national legal obligations. In addition to the requirement that states submit periodic reports to the UN Committee on the Rights of the Child, civil society is also requested to provide the Committee with an alternative, or 'shadow', report on its analysis of the situation of children in a specific country. This requirement provides an important opportunity for civil society to reflect the current situation related to corporal punishment and other forms of humiliating and degrading punishment of children.

USEFUL CONTACTS

Childline

A 24-hour helpline with trained counsellors to assist abused children and their families.

Tel: 08000 55555
(toll free number)

Education Rights Project

The project assists individuals and communities to realise children's rights to education.

Tel: 011-717 30 76

RAPCAN

The organisation conducts training for teachers in the Western Cape on alternatives to corporal punishment in schools.

Tel: 021-712 23 30

Quaker Peace Centre

The organisation conducts training for teachers on alternatives to corporal punishment in schools.

Tel: 021-685 78 00

South African Human Rights Commission Legal Department

If a person's rights as set out in the Bill of Rights in the Constitution have been violated, he or she can lodge a complaint with the Commission.

Tel: 011-484 83 00

National hotline

Parents and teachers can phone the hotline to report cases where teachers have used corporal punishment on children.

Tel: 0800 600 9333
(toll free number)

Department of Education Section for Communications

Principals and teachers can order a copy (for free) of the manual *Alternatives to Corporal Punishment: the Learning Experience*.

Tel: 012-312 59 11

Save the Children Sweden Regional Office for Southern Africa

To order (free of charge) copies of the following reports:

Tel: 012-341 11 86
Email: postmaster@za.rb.se

- Main report as well as summary report of the qualitative survey of South African children's experiences of corporal punishment and other forms of humiliating and degrading punishment.
- Legal status of corporal punishment and other forms of humiliating and degrading punishment of children in South Africa, Swaziland and Zambia.

**Global Initiative to End All Corporal
Punishment of Children**

www.endcorporalpunishment.org

An international initiative that aims to form strong alliances against corporal punishment, make corporal punishment visible, lobby governments to ban corporal punishment and to provide technical assistance to support states with these reforms. The website contains a lot of useful information and publications.

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- 21 Sloth-Nielsen, J. (2002), *Hitting Children is Wrong – a plea to end corporal punishment in South Africa*, Pretoria, Save the Children Sweden.
- 22 Ibid.
- 23 Clacherty, G. & Donald, D. op cit.
- 24 The survey looked at children's experiences of corporal punishment and other forms of humiliating and degrading punishment within four income bands, i.e. low = ZAR 1 000/month or less, low-mid = ZAR 1 001-3 000/month, mid-high = ZAR 3 001-10 000/month, high = ZAR 10 000/month or more.
- 25 Clacherty, G., Donald, D. & Clacherty A. op cit.
- 26 Ibid.
- 27 Ibid.
- 28 Ibid.
- 29 Ibid.
- 30 Ibid.
- 31 Ibid.
- 32 Ibid.
- 33 Ibid.
- 34 Ibid.
- 35 Ibid.
- 36 Article 3(1) – In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
Article 6(2) – States Parties shall ensure to the maximum extent possible the survival and development of the child.
Article 28(2) – States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
Article 40(1) – States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
- 37 CRC/C/15/Add.122, para. 28, 23 February 2000.
- 38 HRI/GEN/1/Rev.4, page 108.

- 39 *S v Williams and Others*, 1995 (3) SA 632 (CC).
- 40 *Christian Education South Africa v Minister of Education*, 1999 (2) SA 83 (CC).
- 41 Act 33 of 1997.
- 42 Act 111 of 1998.
- 43 Kassan, D. & Gallinetti, J. (2005), *Report on the legal status of corporal punishment and other forms of humiliating or degrading punishment of children in South Africa, Swaziland and Zambia*, Cape Town, Community Law Centre.
- 44 Act 84 1996.
- 45 Act 27 of 1996.
- 46 Senosi, N. op cit.
- 47 Ibid.
- 48 Kassan, D. op cit.
- 49 The arguments outlined in this section are largely taken from the book *Hitting People is Wrong – and Children are People Too, A practical handbook for organizations and institutions challenging corporal punishment of children*, Global Initiative to End All Corporal Punishment of Children & Save the Children Sweden, 2003.
- 50 Sloth-Nielsen, J. op cit.
- 51 Global Initiative to End All Corporal Punishment of Children (2003), *Hitting People is Wrong – and Children are People Too, A practical handbook for organizations and institutions challenging corporal punishment of children*, Global Initiative to End All Corporal Punishment of Children & Save the Children Sweden.
- 52 Clacherty, G., Donald, D. & Clacherty A. op cit.
- 53 Sloth-Nielsen, J. op cit.

