



PAN: **Children**



# The prohibition of corporal punishment in the home

PAN: Children Dialogue Series

## Report

December 2013

“I wish to conclude my opening statement with a very profound statement that Mr Nelson Mandela, this democracy first president and global advocate for child rights made in 2003 regarding all forms of violence against children. He said:

*“[I]f we want to be the caring society we thought we were striving for during our fight against the iniquities of apartheid, we must eradicate all traces of violence against and abuse of children. No form of violence can ever be excused in a society that wishes to call itself decent, but violence against children must surely rank as the most abominable expression of violence. It subjects the most vulnerable and the weakest with indignity, humiliation, degradation and injury”.*

I think the biggest gift that South Africa can give to Madiba is to abolish corporal punishment against children everywhere, in particularly in the home by parents and caregivers.” [Exerpt from the Opening Statement by UNICEF’s representative, Ms Aida Girma, Appendix 1]

On the 3 December 2013 PAN: Children hosted a policy dialogue on the Prohibition of corporal punishment in the home. The roundtable was approached from an evidence and rights-based perspective. The aim was to provide policy makers with relevant evidence for the development of policy and legislation in this regard.

The dialogue focused on:

- What the evidence tells us the effects of corporal punishment on children’s development
- The Constitutional rights of South Africa’s children in relation to abolishing corporal punishment of children in the home by parents and caregivers.
- South African law and corporal punishment of children. Are children equal before the law?
- Abolishing corporal punishment of children in the home – a progressive and human rights based religious perspective.

## Panel discussion

### **Corporal punishment: What evidence tells us about the effects on child development?**

**South African research in the context of global evidence: Patric Burton: Executive Director, Centre for Justice and Crime Prevention**

There is a great deal of information on the effects of corporal punishment and selected national and international research was presented. 2005 research conducted by the HSRC and Save the Children makes extensive reference to the risk factors associated with corporal punishment.

The following findings were highlighted: that children are more likely to be aggressive with peers (two studies Trickett and Kuczynski C1986 and Barlow) and that the risk of delinquency and substance abuse increases (Barlow and Parsons 2005, Mulvaney MK and McBert CJ 2007).

A Campbell Collaboration systematic review (Patterson 1993) is considered an academic gold standard and refers to reliable academic data, academic gold standard research, and makes correlations with the impact of harsh discipline.

A 1996 study by Straus MA and Yodanis CL presents findings that condoning violence against one's spouse further feeds into the cycle of violence, and children from these families are more likely to physically abuse their spouses.

A meta-analysis of 88 studies (Gersershoff ET 2002) further confirms the correlation between negative outcomes and corporal punishment. A 2004 study by Kerr, DCR, presents findings that children who are exposed to corporal punishment have less sympathy for others and display lower levels of moral regulation. Further, Turner and Finkelhor (1996) indicate that children punished in this manner are more inclined to 'act out'.

These studies all point to the reality that the impact is both direct and indirect. Furthermore, the national CJCP national child and youth surveys confirm strong associations between corporal punishment and drug use, assault, revenge and taking goods by force. Violence is seen to be the best and most appropriate form of conflict resolution, children may steal money or goods, and feel unsafe at home, school and the community. Some may feel that beating up other children is a viable way to impress their peers and that stealing for revenge is acceptable.

Burton concluded that children who experience corporal punishment are more likely to develop inadequate coping mechanisms, externalise behaviours, and adopt violent/aggressive responses and coping mechanisms as a child, through adolescence and into adulthood. What is not known is the impact of severity and frequency on negative behavioural and developmental outcomes.

Note: References are available in the presentation which is attached as *Appendix 3*

**The Constitutional rights of South Africa's children: The SAHRC position on the abolishment of corporal punishment of children in the home by parents and care givers: Chantal Kisson, Gauteng Provincial Manager, SAHRC**

There is a need to set a standard when it comes to rights of children. Reference was made to the latest amendments to the Children's Bill and it is hoped that it will be passed into law soon.

The Paris Principle, a set of guidelines adopted by UNGASS in 1993, provides five core elements that inform both the work and approach of human rights institutions.

SAHRC has investigated a number of corporal punishment complaints that have come to it. These include the administration of corporal punishment in the home. The aim of the SAHRC is to bring about change and encourage reform.

It was suggested that the broader community has a general interest in protecting children from harm. There is a need to look at a more complex approach to balancing interests.

The SAHRC takes the position that every child is an inherent rights holder. The Constitution obliges us to have regard to international law. (Key international documents are included in the attached

presentation. Reads from key international documents and makes four points about what is critical to each of them.

**The South African law and corporal punishment of children. Are children equal before the law?: Karabo Ngidi, Attorney, Centre for Child Law (University of Pretoria)**

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The Centre for Child Law takes the position that children should enjoy more protection than adults. Counter-arguments refer to the right to privacy of the family, as well as religious and cultural issues. Whatever the complexities are it is important to enjoy community support, as the law on its own will not provide adequate protection.

*(Presentation is attached)*

**Perspectives of the CBC on abolishment of corporal punishment against children in the home, Lois Law, Southern African Catholic Bishop's Conference (SACBC) Parliamentary Liaison Office**

Background information about the role of the SACBC was provided. Essentially faith is seen to have the power to inform individual conscience. The magnitude of crimes against children is unacceptable, and in many cases by those who are assumed to be trustworthy. There is a need for respect for the rights of children. Violence against children has a lasting effect, and can be described as a range of acts of commission and omission. This should be understood in the context of high levels of violence in South Africa more generally.

There is a need to understand what kind of environment children need, and how best they learn. Violence has a significant impact on wellbeing and the SACBC aims to focus on capacity building through family workshops in the coming year. The principle behind the workshops is that parents need to be empowered rather than criticised.

There is a need for an urgent and sustained intervention.

**Abolishment of corporal punishment against children in the home – a progressive and human rights based religious perspective, Keith Vermeulen, Africa Institute for Policy Research and Dialogue**

Vermeulen made reference to the Positive Discipline Network and some guidelines and resources available from its website. He argued that faith based movements have much in common with human rights movements and considered the arguments of both types of movement.

He noted that in some cases this work is perceived as 'right wing religious' and that political processes and the sensitivity of church groups had to be taken into account.

In concluding, he emphasised the need to understand the distinction between punishment and discipline. He argued that despite various perceptions of the religious sector, churches have a role to play in creating a more progressive theology.

## PANEL DISCUSSION: HIGHLIGHTS

1. It was confirmed that there is extensive research in South Africa, although whilst international research is 'designed' to look at this issue, in South Africa it is often seen as a secondary item, and as one in a range of factors. However there is a great deal of empirical research in general, and it is linked to child abuse and child neglect.
2. It was confirmed that there are no positive outcomes from corporal punishment.
3. The emphasis on parenting issues was described as positive, and this includes the importance of emphasising the parenting role that men should play.
4. Referring to the defence of reasonable chastisement in terms of common law. It is arguable that it cannot be legal, as common law is based on the morals/mores of the society. However children are still turned away by the police.
5. The need for community support for the abolishment of corporal punishment is a given.
6. There are examples of media publications from Namibia which could be emulated. They should reflect positive parenting, in all languages and should be in various formats including comics, newspapers etc.
7. The argument that corporal punishment does not do any harm was raised, and reference made to existing research.
8. With reference to cyber bullying, there is data which would allow further exploration of this, as it fits in with general typologies of violence.
9. There are training programmes around positive discipline and reference made to a project in Umtata. It was emphasised that legislation alone cannot protect children and that community participation is essential.
10. It was argued that the discussion had over-emphasised local or South African research, and that the existence of research in itself does not equate with more protection for children.
11. Reference was made to research showing the benefits of positive parenting and the value of positive discipline.
12. It was argued that with or without research, violence against children is simply not allowed, as is the case with violence against women. This does not have to be proven.
13. The meeting was reminded that many parents hold onto the belief that corporal punishment is way of 'doing their best for their children'. There is very little to compare with that and it is a very complex debate that is being presented.
14. The need to deconstruct perceptions of so-called 'right wing theology' was raised. Religion has a place.
15. The issue of serious violence also needs to be addressed. There is a need to do sufficient groundwork around positive discipline and positive parenting. This should be accessible to all communities across sectors and racial groups.

16. Concerns were raised about the right to privacy and that this could override other rights. However it was suggested that no right overrides others and that there is supposed to be a balance.
17. These are challenges, with some people asking if we are moving towards a 'nanny state'.

## Appendixes

Appendix 1: Statement by Aida Girma

Appendix 2: Cabinet statement. March 2013

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Appendix 3: What evidence tells us about the effects on child development? Burton Patric

Appendix 4: Corporal Punishment in the home-are children equal before the law: Centre for Child Law

Appendix 5: Pan Children on Prohibition at Home SACBC Lois Law

Appendix 6: GC8\_en AV CRC General Comment - The right of the child to protection

Appendix 7: Corporal punishment dialogue Media coverage Pretoria News

Contact PAN: Children for any updates at [children.pan@hsrc.ac.za](mailto:children.pan@hsrc.ac.za)