

**SUBMISSION FROM THE GLOBAL INITIATIVE TO END ALL
CORPORAL PUNISHMENT OF CHILDREN
TO THE DEPARTMENT OF SOCIAL DEVELOPMENT**

RE- THE CHILDREN'S BILL AND CORPORAL PUNISHMENT

September 26 2003

In February 2002 we wrote to congratulate the SA Law Commission on including abolition of the “reasonable chastisement” defence in its proposals for review of the Child Care Act.

So we were very concerned to hear that despite the recommendation of the Law Commission, the removal of the defence of “reasonable chastisement” has been omitted from the current Bill. We very much hope that this issue will be reconsidered.

South Africa is admired throughout the world for its magnificent Constitution, and for the many law reforms introduced over the last few years to reflect Constitutional and international human rights standards, including the abolition of corporal punishment of children in the penal system, schools and child care institutions and foster-care. The Constitution plainly requires full respect for children’s physical integrity and human dignity, and their equal protection under the law. Maintaining the reasonable chastisement defence directly conflicts with these standards, excusing assaults on children by their parents that are criminalised between adult family members.

It would be unjust on children, South Africa’s smallest and most fragile people, not to use the current legislative opportunity to enact new legislation which puts right this long-established wrong.

Not only the Constitution, but also the various international human rights instruments which South Africa has accepted require equal protection under the law and special protection for children (Universal Declaration of Human Rights and International Covenant on Civil and Political Rights). The Committee on the Rights of the Child, monitoring Treaty Body for the Convention on the Rights of the Child, has consistently interpreted the Convention as requiring prohibition of all corporal punishment, including in the family, in its concluding observations to more than 120 states in all continents including to South Africa, and in General Comments.

While it is the Constitution and South Africa’s international human rights obligations which provide the imperative for removing the reasonable chastisement defence and explicitly prohibiting corporal punishment in the family, there are other strong reasons for giving this reform priority. Research suggests that corporal punishment is a significant factor in the development of violent attitudes and actions in childhood and later life. South Africa is committed to challenging and preventing all forms of violence. Protecting children from violence is the most important starting point. Law reform is essential to send a clear message that hitting children, like hitting anyone else, is unacceptable and unlawful. Law reform needs to be accompanied by comprehensive awareness-raising and public education, promoting positive, non-violent forms of discipline. Without law reform, education programmes are unlikely

to have significant effect while the law and politicians continue to send mixed messages about the acceptability of violence against children.

The Global Initiative can provide good models of educational materials for adaptation and would be glad to provide any necessary advice on the process of law reform. While we accept that protecting children from all corporal punishment remains a controversial issue, the experience of countries that have prohibited it is that public opinion quickly changes to support the reform, and that if accompanied by appropriate educational measures, it can lead to dramatic positive changes in attitudes and behaviour.

We very much hope that the Government will agree that this is a reform that must go ahead to ensure compliance with the Constitution and international human rights standards, and in the interests of South Africa's children and the wider society.

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Joint Coordinators, September 2003

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