



# ChildrenFIRST

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## Submission to the KwaZulu-Natal Portfolio Committee on Social Development, on the Children's Amendment Bill, 18 October 2006

by Nokuthula Magudulela, Director of ChildrenFIRST

The mission of ChildrenFIRST is to promote and protect the rights and well being of children.

We believe in South Africa, that it is a good place to raise a child, a place where the needs of all children are met and their rights to survival, protection, development and participation are realized.

In preparation for the public hearings on the Children's Amendment Bill, ChildrenFIRST facilitated workshops with children who had been on the streets, at more than one NGO in KwaZulu-Natal.

The Joseph Rowntree Charitable Trust financed these, and also liaison between NGOs working for children living on the streets, here and in other provinces.

The input that has been made so far and that is scheduled to be made, has been supported by ChildrenFIRST and the Children's Institute of the University of Cape Town.

It is based on sound evidence from a wide range of children and NGOs.

ChildrenFIRST would like to make two inputs regarding the Children's Amendment Bill.

The inputs are about corporal punishment and about services for street children.

**Firstly, ChildrenFIRST urges that corporal punishment in the home should be unlawful.**

Evidence from across the country for many years has shown that the harsh treatment of children - by all sorts of relatives – and which is called corporal punishment, is nothing less than child abuse.

Thousands of children leave home each year for the streets, because of this.

It is very costly in terms of treatment and services to have to address this issue on an individual basis with children, and through counseling their families.

The regular beating of children becomes a form of personal rejection, to the point that children escape to the streets to avoid both.

The path to community reintegration is then long and difficult.

The basic family unit and the child's relatives should know that it is illegal to beat children. It is high time that relatives are called to account for it.

People use sjamboks and sticks - and I don't mean small twigs - to beat children.

They are unacceptable for punishing children.

Children have objects thrown at them, things like vases, glasses and bottles with the intention of inflicting pain and serious body injuries.

The violence that people engage in so easily in their homes, generates the culture of violence that we see now in our schools.

ChildrenFIRST's stance is **NOT** that children **MUST NOT BE DISCIPLINED**; there are many forms of alternative discipline that can be used other than corporal punishment.

**Secondly, ChildrenFIRST urges that those members of the police force be called to account, who are brutal towards children without protection on the streets.**

Gundi will make personal input before I continue.

Gundi's family relationships are being mended through Street-Wise by family counseling so that he can return to his community.

He is a bright and personable young man, and like many thousands of boys who have been rescued from the streets, he has a great future ahead of him.

## GUNDI'S PRESENTATION

My name is GUNDI

I want to tell you why many of us have left home:

- It is because our families beat us so badly.
- The uncles beat us with sjamboks.
- And the mothers shout at us and say bad things.
- Also the grannies and the step-fathers and step-mothers and our fathers, sometimes they take big sticks to hit us, or sjamboks.
  
- They beat us very hard for small things, like breaking a glass or not washing the dishes.
- It is too much.
- And they beat us for things that it is hard for children to be responsible for.
- Like if one boy must look after all the goats alone and one goat goes this way and it gets lost.
- Or if we don't want to go out in the dark alone at night to fetch things or to look for goats, because we are scared.

Now I want to tell you what happens to us on the streets:

- The police treat us very badly.
- They kick us, even when we are sleeping.
- They take our money and sjambok us.
- They beat us for nothing and say "Go away from here".
- They run after us; sometimes we get knocked down by cars and they leave us like that.
- When we are tired after swimming and are sleeping on the sand they come and spray us in our eyes and hit us.
- The police also urinate on us.
- When we want to report a case, they chase us away, like getting raped or our money being stolen.
- They spray us with tear gas for nothing.
- They wake us up in the middle of the night for nothing and tell us, "Go and find a somewhere else".
- People accuse us of stealing their things when we did not and then the police beat us.
- It hurts me even to tell you this, that they beat my friend very badly and then they just left him, and one of those ones who used to beat us, took him to Addington Hospital.
- They drive us far out of town and leave us there so we don't know where we are, and we get lost.

Experience throughout the country with children who come to the streets, makes it clear that tens of thousands of relatives over the years **have NOT known OR do NOT care**, where to draw the line between physical punishment and the physical abuse of children.

Children have been granted a right to personal integrity in the Constitution.<sup>1</sup>

The purpose of the Children's Amendment Bill is

- to uphold the rights of children as enshrined in the Constitution, and
- to provide guidance and support for adults in working for the best interests of the child.

Therefore,

**ChildrenFIRST urges that a clause be inserted in Chapter 6, Part 4 of the Children's Amendment Bill, to forbid corporal punishment by parents, guardians and children's relatives.**

Clause 139 ( ) No person may administer corporal punishment to a child who is living in the home environment.
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**We also want to commend Clause 139 (4)**

- which requires programmes promoting appropriate discipline at home and at school to be available across the country.

We believe these programmes are vitally important for children's well-being and for role modeling appropriate behaviour.

At present counseling about appropriate punishment is being given in individual families by NGOs working with children who are living on the streets and who have been physically abused by family members in the name of corporal punishment.

**In regard to the official police policy to serve and protect the public**

It is not official police policy to maltreat children, but there are individuals who have shamed the force over many years and in all the provinces of this country, by doing so.

Clause 150 of Children's Act 38 of 2005 has identified children living and working on the streets as children in need of care and protection.

The Children's Amendment Bill identifies residential services for children in need of care and protection as Child and Youth Care Centres with appropriate programmes.

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<sup>1</sup> Section 12 (1)(c) (d) (e)

**Therefore,  
ChildrenFIRST urges that shelters be relocated from Chapter 14 in the  
Children’s Amendment Bill, to Chapter 13.**

This will mean that

- minimum standards can be streamlined and professionalized;
- the services that shelters are already providing will be acknowledged;
- staffing structures can be professionalized;
- a children’s forum will make input to the management board;
- adequate funding must be provided;
- the police will have to be accountable to professional and registered bodies for their treatment of children found on the streets.

Although there is a shortfall of about 11,000 social workers in South Africa, this can be offset by the 8,000 trained Child and Youth Care Workers available.

The NACCW<sup>2</sup> is also able to train more child and youth care workers in two year programmes that can develop afterwards right up to Masters level.

We have no excuse for offering second rate services for children on the streets.

To move shelters from Chapter 14 to Chapter 13 will need the following amendments:

- a new definition for “shelter” in the *definitions*, Child Care Act 38 of 2005;
- deleting the word shelter from Clause 191(1)(b) in the Children’s Amendment Bill; and
- deleting all references to shelters in Chapter 14 of the Children’s Amendment Bill.

**And lastly,  
duties and powers to run drop in centers that provide services for children  
who live and work on the streets, should not be allocated to municipalities.**

Nowhere in the Children’s Amendment Bill are services for children in need of care and protection, allocated to municipalities.

But this is allowed in regard to services for children living on the streets, through CHAPTER 14 Clause 225 (1).

The fact is, these children need therapy and development programmes, just like other children who have been identified as in need of care and protection.

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<sup>2</sup> National Association of Child Care Workers

**ChildrenFIRST believes that the first commitment of municipalities cannot be “the best interests of children”, since they need to work closely with the police service, to support the interests of tourism and business and to combat crime.**

The harsh treatment that the children receive on the streets from individual members of the police force, show that municipal officials are not able to offer these children the care and protection that is required in terms of Children’s Act 38 of 2005, and the Constitution of this country.

In fact, municipal officials have described all street children as criminals, quite openly, in newspapers and on television.

Municipal officials who seek election to senior posts have also been known to promise voters that they will clear the streets of children.

Some municipalities spend a great deal of money on public campaigns that urge people NOT to give children on the streets, food or money.

They try to place the blame for the children’s presence on the public, saying that the children will go home if the public stops giving them food and money.

This shows

- a lack of insight into the problems that bring children to the streets,
- and a lack of commitment to address the children’s problems therapeutically and developmentally.

The false impression that municipalities can carry out the activities of drop in centers is probably due to the fact that the Minimum Needs and Standards of drop in centers have not been listed in the Bill.

The Norms and Standards listed, are for children NOT in need of care and protection.

**Therefore, ChildrenFIRST urges that amendments to Norms and Standards be made in Chapter 14, in clause 220.**

- These should specify health, education, therapeutic, development and other services that are essential in drop in centers.
- These centers which provide a first phase for identifying the needs of children who have left home, and for reintegrating them to the community, should also be re-defined in Chapter 14 section 213 (2).

We have added an Appendix to this presentation that sets out the wording for our recommended amendments to clauses in the Children’s Amendment Bill.

Gundi and I would like to thank you for hearing our presentation.