

## FOR IMMEDIATE RELEASE

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### Landmark moment for child rights in South Africa

#### **Joint press release by respondents and interested parties in the case of *YG v State***

[Children's Institute, Peace Centre, Sonke Gender Justice, Centre for Child Law, Save the Children SA, The Parent Centre; Global Initiative to End All Forms of Corporal Punishment.]

On 29 November 2018, the Constitutional Court will consider the constitutionality of the use of corporal punishment in the home. The Constitutional Court has prohibited corporal punishment in detention settings in 1995 and in schools in 2000, and this case presents the opportunity to prohibit its use in the home. At present, the common law defence of 'reasonable chastisement' practically allows parents to hit their children with the justification of corporal punishment being a form of discipline. The central question before the Constitutional Court is whether this practice should continue to be allowed or whether it needs to be prohibited since it violates children's rights.

The case is an appeal to a judgment by the South Gauteng High Court which struck down the defence of 'reasonable chastisement' in October 2017. The High Court found that a defence that allows parents to physically discipline their children violates children's rights and that the protection of children from all forms of violence is critical in our context of alarmingly high levels of violence against children. The judgment reinforced submissions by the Children's Institute, The Peace Centre, and Sonke Gender Justice – all represented by the Centre for Child Law – which had underlined the high levels of violence against children and the link between corporal punishment and other forms of violence. Says Prof Shanaaz Mathews, Director of the Children's Institute at the University of Cape Town:

"Corporal punishment is one of the key drivers of the high levels of violence against children in South Africa. Recent findings from the Birth to Twenty Plus study—which followed more than 2000 children in Soweto from birth to 22 years old— shows that 50% of younger children have experienced violence in the home most often through physical punishment by parents. In adolescence, the proportion of children who have experienced violence in the home increases to 83%."

Research evidence shows that even mild forms of corporal punishment can lead to a number of negative outcomes for children. Carol Bower from the Peace Centre explains,

"Corporal punishment which people consider to be 'light' or 'normal', such as smacking and spanking, can have negative effects on children. The use of such punishment increases children's aggressive behaviour. Children who are smacked or spanked are, for instance, more likely to act out against other children."

The Constitutional Court case is thus an opportunity to reflect on child discipline. Divya Naidoo, Child Protection Programme Manager at Save the Children South Africa, highlights the importance of using positive discipline and explains that there are fundamental differences between positive discipline and corporal punishment:

"Discipline does not mean punishment. Corporal punishment may result in immediate compliance, but does not lead to self-discipline and, in fact, often results in repeated misbehaviour. Positive discipline, on the other hand, is about guiding and teaching a child to develop understanding, self-discipline and long-term changes in behaviour."

Positive discipline is not an alternative form of punishment: it avoids the use of punishment. Instead, it assumes that children want to behave well but need help understanding how to do so and that children learn best through cooperation. Parents, in turn, might need help to learn new ways of raising children and there are several parenting courses available that are offered by civil society organisations. Says Carmen De Vos, Senior Social Worker at The Parent Centre,

“Key to instilling a sense of discipline in the child is a good parent-child relationship. The Parent Centre provides parents and caregivers with the necessary support to develop a positive relationship with their child and to use positive parenting. It is our experience that when parents understand the underlying factors affecting children’s behaviour, they are able to address these without the need for punishment. Bad behaviour decreases and even stops. Positive parenting and positive discipline are possible for all parents irrespective of race, culture, religion, education, background and economic status.”

While caregiving and disciplining children is still primarily the role of mothers and female relatives, Wessel Van den Berg, Children's Rights and Positive Parenting Unit Manager at Sonke Gender Justice, highlights that fathers also play an important role in changing in parenting practices by stepping out of the stereotypical role of being the disciplinarian.

“We have seen many fathers who participate in the Men Care programme’s parenting groups go through the shift from using corporal punishment, towards ending their use of corporal punishment. They have much better relationships with their children now and experience much more closeness and trust. These men have proven that it is possible to step towards a better relationship with their children, and to stop using corporal punishment.”

Nondumiso Mbaxa, Chief Social Worker at the Umtata Child Abuse Resource Centre (UCARC), highlights the importance of working with different stakeholders to achieve sustainable change in society:

“Changing the way parents discipline their children is not just about changing individual parents’ behaviour or mind-sets. In order to make change in our society, we need to change the mind-set of our leaders towards children. Our organisation uses the children’s rights community development project to empower community leaders in promoting children’s rights. This is a collaborative process with the purpose of involving everyone in caring for children and protecting them from any form of abuse.”

Commenting on the matter of corporal punishment, Bishop Malusi Mpumlwana, General Secretary of the South African Council of Churches emphasised that:

“Any violent act against a child would be at odds with the attitude of Jesus Christ on children. When adults as much as prevented children from coming to him ‘he was indignant’, Mark’s Gospel tells us; ‘he welcomed them, took them into his arms and blessed them.’ The same Jesus would be even more angry with adults that use violence on children! Moreover, the use of violence by parents when children irritate or frustrate them, teaches children that one is supposed to act violently against what one dislikes - that is the very fountain of the endemic culture of violence in our society. In the name of the loving Jesus of Nazareth, Son of Mary, we say NO to violence against children!”

The Constitutional Court will take several months to deliver its judgment on corporal punishment in the home, but parents and caregivers have the power to change their behaviour now. The time to stop hitting children is now.

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<b>Respondents available for contact via Media Liaison</b>
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South African Council of Churches
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Department of Social Development
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Sonke Gender Justice
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Children's Institute
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Save the Children SA
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The Parent Centre
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Centre for Child Law
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Peace Centre
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The Teddy Bear Foundation for abused children
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Umtata Child Abuse Resource Centre (UCARC)
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Africa Project Coordinator: Global Initiative to End All Corporal Punishment of Children
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Jamiatul Ulama
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