

He should talk to me, not beat ...



**Ending Corporal
Punishment of Children
in Swaziland**



Save the Children
Sweden

Save the Children Sweden fights for children's rights. We influence public opinion and support children at risk in Sweden and in the world.

The vision of Save the Children Sweden is:

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

Published by:

Save the Children Sweden
Regional Office for Southern Africa
PO Box 40788
Arcadia, 0007
Telephone: +27 (0)12 341 1186
Fax: +27 (0)12 341 1125
E-mail: postmaster@za.rb.se
Web: <http://www.rb.se>

Copyright Save the Children Sweden

Published in May 2005

Author:

Ms Ulrika Soneson, Save the Children Sweden, Pretoria

Edited by:

Ms Charmaine Smith, Cape Town

Designed by:

Marketing Support Services CC, Pretoria

Drawings inside the publication:

Children who participated in the survey on children's views and experiences of corporal and humiliating punishment discussed in chapter 5 drew the pictures inside this publication.

ISBN: 0-620-34220-X

To order additional copies please contact Save the Children Sweden on the address mentioned above.

Ending Corporal Punishment of Children in Swaziland

He should talk to me, not beat ...

May 2005

TABLE OF CONTENT

| | |
|---|----|
| <i>Abbreviations</i> | 4 |
| 1. <i>Introduction</i> | 5 |
| 2. <i>Definition of corporal punishment and other forms of humiliating and degrading punishment of children</i> | 6 |
| 3. <i>Why is corporal and humiliating punishment of children wrong?</i> | 8 |
| 4. <i>How common is corporal and humiliating punishment of children in Swaziland?</i> | 10 |
| 5. <i>Children's views of corporal punishment and other forms of humiliating and degrading punishment</i> | 12 |
| 6. <i>Swaziland's international obligations</i> | 18 |
| 7. <i>Swaziland's national laws</i> | 20 |
| 8. <i>Frequently used arguments justifying corporal punishment</i> | 22 |
| 9. <i>Alternatives to corporal punishment and other forms of humiliating and degrading punishment</i> | 27 |
| 10. <i>Conclusion and recommendations</i> | 29 |
| <i>Useful contacts</i> | 33 |
| <i>End notes</i> | 34 |

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

UN United Nations

I. INTRODUCTION

“He should talk to me, not beat.”¹

Girl, 9-12-year age group

As in so many other countries in the world, many children in Swaziland 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) and the African Charter on the Rights and Welfare of the Child (ACRWC).

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 Swaziland. 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.

*"I wanted to go to church. They hit me with a knobkerrie, and said I should take the goats to the mountain. I ran away."*³

Boy, 9-12-year age group

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

*"I spilt my mom's water in the refrigerator. She shouted at me and said I was not going to sleep in her home."*⁴

Girl, 6-8-year age group

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.

*"Did not come to school, as I had attended Tibiyo Bursary interviews; so I was beaten six times on the buttocks. I felt depressed, humiliated, punished for no good reason."*⁵

Boy, 13-18- year age group

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

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'.

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.

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, to undermine 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 (for further information see chapter 6).

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 Swaziland.

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 Swaziland, interpersonal violence is widespread. 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 Swaziland indicated that the corporal punishment of children can also elicit aggressive behaviour.¹⁰

“My elder brother beat me. He hit me against the wall and clapped me. I really don’t know, he likes beating me and for this I am worried. I find no peace in my life. I feel miserable. I feel sad, and each time I think about it I feel sad. I want to commit suicide and never see him again. I felt like killing him with my bare hands.”

Girl 13-18-year age group

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, medical problems, or caring for a sick parent and taking care of siblings due to the HIV/AIDS pandemic. 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 SWAZILAND?

There is almost no 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 Swaziland. However, a quantitative and qualitative survey of 2 750 Swazi children – discussed further in chapter 5 – indicates clearly that corporal punishment and other forms of humiliating and degrading punishment of children are widely practised in Swaziland.

In 2005, a quantitative and qualitative survey of 2 750 Swazi boys and girls aged 6-18 years explored their experiences, views and feelings related to corporal punishment and other forms of humiliating and degrading punishment. It is important to keep in mind that the survey looked at corporal and humiliating punishment of children experienced over a period of two weeks when comparing the findings of this survey with other surveys, which might have used different time frames.¹⁴

Eighteen percent of children reported being subjected to corporal punishment in the home, in the form of being hit with the hand during the two-week period. Twenty-eight percent of children experienced corporal punishment in the form of being beaten with objects such as sticks, belts, sjamboks and whips during the same period.¹⁵

*“I was beaten by my mother with a belt that has some metal on it.
She hit me 100 times on my buttocks. I broke a glass.”*

Boy, 6-8-year age group

Moreover, the survey points to the fact that corporal punishment, in many instances using an object such as a stick, cane or sjambok, is being practised by a large number of teachers as a way of disciplining pupils. Corporal punishment is used to a much greater extent at school than in the home. Twenty percent of children reported being hit with a hand and 59% of children reported being beaten with an object at school during the same two-week period.¹⁶

*“The head teacher hit me 11 times on the same hand with a stick.
I had not worn the tassels worn by maidens to observe chastity rite.”*

Girl, 13-18-year age group

It furthermore indicates that children are frequently subjected to humiliating and degrading punishment in the home and at school. Thirty-five percent of children reported being exposed to humiliating punishment at home, while 25% have experienced this form of punishment at school. Examples of humiliating punishment related to verbal abuse, name-calling as well as isolation from the home or family. Corporal punishment administered in front of others was also perceived as humiliating.¹⁷

“I was walking around with my shirt untagged. The teacher called me to the staff room and made me pull up my shirt, open my pants and tuck in my shirt, then fasten it. Then open my pants, you know open my zip and this was done at lunch-time when teachers were coming in.”

Boy, 13-18-year age group

Children from low income environments generally experience corporal punishment and other forms of humiliating and degrading punishment to a greater extent than children from high income environments.¹⁸

There was a consistent trend, statistically significant in four out of six comparisons, for corporal punishment to be used more frequently on younger children than on older children. Older children experience humiliating and degrading punishment to a greater extent than younger children.¹⁹

The study found no statistically significant difference between the levels of corporal and humiliating punishment received by boys and girls, with the exception of older boys who experience humiliating and degrading punishment at school more often than girls. Qualitative data indicates that girls are particularly prone to verbal abuse, as parents attempt to control perceived sexual activities of teenage girls.²⁰

In compiling research on the legal status of corporal punishment and other forms of humiliating and degrading punishment of children in Swaziland, a questionnaire was administered to 47 adults. Seven of the respondents called for a complete ban of corporal punishment, while 17 respondents called for the continuation of all forms of corporal punishment. Some of the remaining 23 respondents thought that it should be banned in prisons; some thought it should be banned in schools, while hardly any respondent called for a ban in the home. All of the respondents were of the opinion that a complete ban of corporal punishment would not be received well by the country as a whole. It also became clear that, according to custom and tradition, corporal punishment is an integral part of Swazi child-rearing practices.²¹ For example, it is generally accepted that older persons in the society are allowed to smack any child in order to correct behaviour and ensure that children grow up to become ‘smart’ adults.

The corporal punishment of children seems to be a generally accepted and deep-rooted practice to discipline children. There is very limited awareness among adults of alternative, non-violent methods of child-rearing.

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 Swaziland 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 discipline.

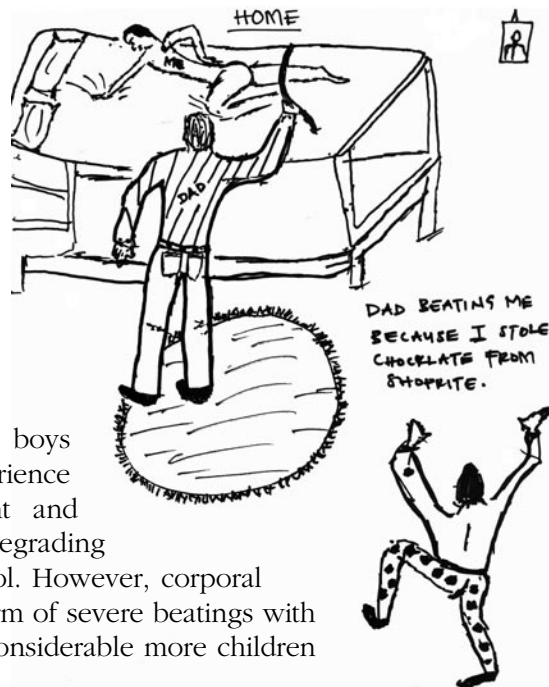
5. CHILDREN'S VIEWS OF CORPORAL PUNISHMENT AND OTHER FORMS OF HUMILIATING AND DEGRADING PUNISHMENT

Research and surveys on children's views and experiences of corporal punishment and other forms of humiliating and degrading punishment in Swaziland are very limited. The only exception is a quantitative and qualitative survey of 2 750 Swazi children's views and experiences of these forms of punishment in the home and at school. There is a lack of information on children's views and experiences of punishment in child care facilities, prisons, police stations and other institutions.

In 2005, a survey of Swazi boys and girls aged 6-18 years explored children's experiences, views and feelings in relation to corporal punishment and other forms of humiliating and degrading punishment. The survey had a quantitative component, which included 2 366 children from all of Swaziland's four regions, and a qualitative component, which included 384 children from the same four regions. The quantitative component of the survey provides information about the prevalence of corporal and humiliating punishment, about levels of unacceptability of these forms of punishment, and about forms of discipline preferred by children. The qualitative part of the survey on the other hand gives more detailed information about the subject in children's own words and assists in interpreting the quantitative data. The findings of 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 status²², age and gender. Within this complexity there are, however, some clear trends.²³

It should be noted that the survey looked at corporal punishment and other forms of humiliating and degrading punishment of children experienced over a period of two weeks. It is important to keep this in mind when comparing the findings of this survey with other surveys, which might have used different time frames.

It is clear from the study that many boys and girls of all ages in Swaziland experience high levels of corporal punishment and other forms of humiliating and degrading punishment in the home and at school. However, corporal punishment – in many cases in the form of severe beatings with an object – is reported at school by considerable more children than at home.²⁴



Eighteen percent of children reported being subjected to corporal punishment by being hit with the hand in the home during a period of two weeks, and 28% of children experienced corporal punishment in the form of being beaten with objects such as sticks, belts, sjamboks and whips during the same period.²⁵

*“My mother beat me with a belt on my back.
I came home late from playing with my friends.”*
Boy, 9-12-year age group

*“She locked me into her room and hit me with a stick on my legs.
She did not like it that I was playing with water.”*
Girl, 9-12-year age group

Boys aged 6-12 years described being beaten for breaking things, stealing, not looking after livestock properly, going out to play instead of working, or playing out too late. Young children – mainly girls – were punished for issues related to household chores.²⁶

*“At home I did not want to look after cattle.
I was made to fetch water and they beat me.”*
Boy, 9-12-year age group

On many occasions corporal punishment was linked to additional punishment such as chores, hard physical labour or withholding food.²⁷

*“I came home from playing soccer later than the expected time
in the evening. I was beaten with a stick and denied food.”*
Boy, 13-18-year age group

*“I had not washed the dishes. My mother beat me, told me to
leave home and ordered me to go and plough the fields.”*
Boy, 9-12-year age group

A number of children reported being beaten by parents or relatives while the adults were under the influence of alcohol.²⁸

*“I had come home during late hours by being held up
with my friends. My aunt was totally intoxicated.
When I was asked why I came late at night, I tried to
explain but my explanation fell on deaf ears. I was cruelly
flogged. I was beaten with a knobkerrie.”*
Boy, 13-18-year age group.

Twenty percent of children reported being hit with a hand and 59% of children reported being beaten with an object at school during the two-week period. In schools children are most often hit with the hand, sticks, canes, sjamboks and blackboard dusters.²⁹

*“I was not able to count and I was beaten.
I was beaten on my hand five times.”*
Boy, 6-8 year-age group

*“Teacher beat me with a big stick on my bums. She said I had not
banded in my work, yet I had done so and she did not mark it.”*
Girl, 9-12-year age group

Children reported being subjected to corporal punishment at school due to making a noise or talking in class, coming late at school, not completing work, not doing work correctly, failing tests, wearing incorrect uniform items, dropping litter, loosing books or leaving them at home, etc.³⁰

In addition to more traditional forms of corporal punishment, Swazi children also experienced punishment involving physical labour. Another form of punishment was designed to cause discomfort or pain, for example jumping up and down like a rabbit or sit on an invisible chair for long periods of time. Most of these kinds of punishment were also experienced as humiliating, which appear to have been the intention.³¹ Such activities constitute excessive physical exercise and are, according to the definition of corporal punishment in chapter 2, seen as one form of corporal punishment of children.

*“The teacher made me sit on the invisible chair for one hour.
I was making a noise in class.”*
Girl, 6-8-year age group

*“I came to school late for the third time. My teacher made me
dig a hole outside. Anyone who did anything wrong that
week was made to dig the hole.”*
Boy, 9-12-year age group

Thirty-five percent of children reported being exposed to humiliating punishment at home, while 25% have experienced this form of punishment at school. Examples of humiliating punishment related to verbal abuse, name-calling, and isolation from the home or family. Corporal punishment administered in front of others was also perceived as humiliating.³²

*“One day we were learning a new topic and I never
understood it. My teacher started shouting at me; she started
shouting that I’m becoming lazy and stupid because I had
gotten a lot of things wrong in my work.”*
Boy, 6-8-year age group

*“My teacher threw a duster at me and called me a
useless piece of cloth. I raised my hand and gave a wrong
answer. I cried as others laughed at me.”*
Girl, 13-18-year age group

Humiliating punishment is quite often meted out by foster parents, step parents, uncles and aunts.³³

Children from low income environments generally experience corporal punishment and other forms of humiliating and degrading punishment to a greater extent than children from high income environments. In addition, qualitative data indicates that punishments tend to be particularly severe in the low income environments.³⁴

“It was alleged that I had influenced one boy to smoke and to drink alcohol so I was given 12 strokes on the buttocks. I was strangled first. Three teachers punished me, each giving me four strokes.”

Boy, 13-18-year age group

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

In general, corporal punishment is also used more frequently on younger children than on older children. Older children tend to experience humiliating and degrading punishment to a greater extent than younger children.³⁵

The study found no statistically significant difference between the levels of corporal and humiliating punishment received by boys and girls, with the exception of older boys who experience humiliating and degrading punishment at school more often than girls. Qualitative data indicates that girls are particularly prone to verbal abuse, as parents attempt to control perceived sexual activities of teenage girls.³⁶

“My uncle shouted at me that I was late and although I explained to him that I was from netball practice and gym. He threw a stone at me. I was able to dodge the stone. He also wanted me to come along with him to school to prove that I was from the practice. He spoke bad words, saying that it is possible that I was with boys at school and I am lying that I was at practice.”

Girl, 13-18-year age group

If children themselves could chose, they would prefer to be disciplined in a non-violent and non-humiliating manner. On average 77% of the children questioned in the survey found corporal punishment unacceptable in both the home and at school. The sentiment was the same towards humiliating punishment, which approximately 81% of the children found unacceptable.³⁷

The overwhelming majority of children would like parents and teachers to talk to them and explain what they did wrong instead of using corporal punishment and other forms of humiliating and degrading punishment. According to the study, 82% of the children would like adults to talk to them, 10% of the children would prefer

non-violent disciplinary measures in the form of staying in one's room, writing punishment, or detention. This indicates that the majority of children (92%) wish to be treated with respect, to be listened to by adults, and to be given a better understanding of what they have done wrong.³⁸

"I was beaten by my mom using a coat hanger. She beat me all over the body. I came home late and did not cook that day. She should tell me nicely what I'm supposed to do."

Girl, 13-18-year age group

"My aunt beat me. I arrived late from fetching water. I felt bad because it was painful where she had beaten me. It would have been better if she made me wash the dishes."

Girl, 9-12-year age group

Eight percent of the children preferred corporal punishment when being disciplined. 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 can not imagine any forms of non-violent solutions. Another explanation could be that corporal punishment is perceived as less painful or tedious than punishment in the form of very heavy physical labour.³⁹

Children reported a range of feelings and behavioural responses to corporal punishment and other forms of humiliating and degrading punishment. In the older age groups, a number of children expressed very strong emotional responses to punishment experienced at home, such as outrage, embarrassment, isolation, being hated, withdrawal, shock, injustice, worthlessness, guilt and humiliation. However, across all age groups the primary feelings were sadness, regret, remorse or guilt. Many children in the lower income groups said anger was the primary feeling, as well as offence, unfairness and a desire to get away. At school anger and resentment to corporal punishment were more commonly reported across all age groups, but particularly by the older children. Apart from anger, younger children also expressed sadness and 'feeling bad', often coupled with a desire to run away from school.⁴⁰

"I came late to school and because I did not have the right socks. My teacher told me to touch the wall and he gave me six strokes on the buttocks; when he realised that I did not have the proper type of socks, he gave me another six. I felt angry."

Boy, 13-18-year age group

"They were hitting me and shouting at me. They beat me many times. I had spilt methylated spirit. I felt pain where they hit me. I felt like running away."

Boy, 6-8-year age group

Both at home and at schools, the responses of the majority of children reflected high levels of powerlessness in the face of adult authority, which was felt to be absolute and unchallengeable.

In many cases, particularly at school, children's anger gave rise to aggressive fantasies, and wishes for revenge, but none reported taking any action.⁴¹

*"I had not washed my plate when I finished eating.
My mother strangled me and I started crying.
I did nothing. I felt like hitting her with a clenched fist."*
Boy, 13-18-year age group

*"The teacher came to me and he wanted to slap me and he took his
rope and hit me with the rope. I felt like taking something and breaking
him. I was thinking of killing him."*
Boy, 9-12-year age group

6. SWAZILAND'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.

Swaziland ratified the CRC in 1995. Swaziland has made a reservation to the CRC relating to the progressive implementation of children's right to education. This reservation does not affect Swaziland's international obligations relating to the abolishment of corporal punishment and other forms of humiliating and degrading punishment of children.

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.⁴²

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. In view of this, the Committee

has requested states to undertake comprehensive law reforms to prohibit all forms of corporal punishment. 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.

The Swazi government has not yet submitted its initial report to the Committee. In view of this, it is recommended that Swaziland submits the report to the Committee with immediate effect, and that the report includes information on steps undertaken to abolish the use of corporal punishment and other forms of humiliating and degrading punishment of children in the country.

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 punishment and other forms of humiliating and degrading 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...”.

Swaziland has not ratified the African Charter. It is, therefore, recommended that Swaziland ratifies the ACRWC without delay.

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.⁴³

In ratifying the CRC as well as other international human rights conventions, such as the International Covenant on Civil and Political Rights, Swaziland 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 practices in the country.

7. SWAZILAND'S NATIONAL LAWS

In Swaziland, corporal punishment of children is legalised methods of child-rearing in the home, at school, and as a sentence by the court.⁴⁴

Swaziland has developed a draft Constitution, which has not yet been adopted. It has an extensive Bill of Rights that includes a section on children's rights. The draft Constitution states in paragraph 30(2) that:

"A child shall not be subjected to abuse or torture or other cruel, inhuman and degrading punishment subject to lawful and moderate chastisement for the purpose of correction".

With this provision, Swaziland will make moderate chastisement of children, which includes corporal punishment, constitutional in contradiction to its international human rights obligations outlined in conventions such as the CRC and the International Covenant on Civil and Political Rights.⁴⁵

It appears that a High Court decision has placed a moratorium on whipping as a sentence by a court and that the courts are no longer making use of this legal option of sentencing a person to whipping.⁴⁶

By ratifying the CRC, Swaziland 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. The existence of laws or special defences in laws, as well as clauses in the Constitution that excuse any form of corporal punishment of children thus contravene the country's international obligations on human rights.

In 2004, a number of civil society organisations in Swaziland initiated a review of legislation related to children to identify what measures need to be taken to bring Swazi legislation in line with the CRC. On the basis of this review, it was recommended that the government undertake a comprehensive process to bring legislation aimed at children in line with the CRC.

Within this process, the Swazi government should ensure that all forms of corporal punishment and other forms of humiliating and degrading punishment of children are explicitly prohibited by law. Legislation still allowing for the use of corporal punishment, as well as special defences in laws excusing any form of corporal punishment of children, should be repealed. Existing practices allowing for the use of corporal punishment should be addressed. The wording "... subject to lawful and moderate chastisement for the purpose of correction." in Section 30(2) in the draft Constitution – making moderate corporal punishment of children constitutional – should be removed.

In accordance with Swazi customs and traditions, the use of moderate corporal punishment of children seems to be an integral part of child-rearing. The main

reasons for the continued use of corporal punishment among adults 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 adults. The majority of adults have not received any training on alternatives to corporal punishment and they are not equipped with the necessary skills to manage discipline through non-violent means.

In order to ensure that children are protected from corporal and other forms of humiliating and degrading punishment, new comprehensive legislation on children should spell out the need for the government to initiate public education and awareness-raising to change attitudes to the corporal punishment of children and provide teachers, parents and other care givers with alternative, non-violent ways of disciplining children. Additional financial and human resources need to be allocated to ensure that adults receive training on children's rights and on alternatives to corporal punishment. In-depth training on children's rights and alternatives to corporal punishment should form part of the curricula of teacher training institutions as well as training institutions for law enforcement officials and other officials caring for children. It is also important to reach politicians, parliamentarians and traditional leaders with information on why corporal punishment constitutes a violation of children's rights.

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 these forms of punishment of children are 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.

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 this practice 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.⁴⁷

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. 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.

African cultures seem to be replete with sayings which suggest that corporal punishment of children is not the preferred child-rearing practice.

"You don't build a family through a stick." ⁴⁸

Traditional Zulu saying

"Imbwa ya mukali taichenjela."

Bemba proverb meaning harsh treatment of children
doesn't serve anything.

My religion requires the corporal punishment of children.

People are entitled to freedom of religion only insofar as the practice 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.

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.⁴⁹

It is also clear that most Swazi 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.⁵⁰

In addition to law reform, the challenge in Swaziland 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 Swazi 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.⁵¹

- 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.
- Practice 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' practices, 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 punishment and other forms of humiliating and degrading 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 Swaziland, interpersonal violence is widespread. 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 Swazi children. Boys and girls in Swaziland 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.

Corporal punishment of Swazi children is a legalised form of child-rearing in the home, at school, and as a sentence by a court. However, it appears that a High Court decision has placed a moratorium on whipping as a sentence by a court and that the courts are no longer making use of this legal option to sentence a person to whipping.

In ratifying the CRC as well as other international human rights conventions, Swaziland is obliged not only to prohibit by law all forms of corporal punishment and other forms of humiliating and 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.

The wording "... subject to lawful and moderate chastisement for the purpose of correction." in Section 30(2) in the draft Constitution, which makes moderate corporal punishment of children constitutional, is also in contradiction to obligations in international human rights instruments.

In accordance with Swazi customs and traditions, the use of moderate corporal punishment of children seems to be an integral part of child-rearing. The main

reasons for the continued use of corporal punishment are linked to the legality of the practise, a lack of understanding of the human rights framework protecting children, as well as of the harmful effects of corporal punishment on children, among adults. The majority of adults have not received any training on alternatives to corporal punishment and they are not equipped with skills to manage discipline through non-violent means.

Legislation will not end the use of corporal punishment on its own. 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 Swaziland to ensure children's rights to a life free from corporal punishment and other forms of humiliating and degrading punishment:

International obligations

Swaziland should ratify the ACRWC without delay.

The Swazi government should submit its initial report to the Committee on the Rights of the Child with immediate effect. The report should include information on steps undertaken to abolish the use of corporal punishment and other forms of humiliating and degrading punishment of children in the country.

Law reform

Based on the review undertaken by civil society in 2004, the Swazi government should undertake a comprehensive law reform process to bring legislation related to children in line with the CRC. Within this process, the government should ensure that corporal punishment and other forms of humiliating and degrading punishment of children are explicitly prohibited by law. Legislation still allowing for the use of corporal punishment, as well as special defences in laws excusing any form of corporal punishment of children, should be repealed. Existing practices allowing for the use of corporal punishment should be addressed. The wording "... subject to lawful and moderate chastisement for the purpose of correction." in Section 30(2) in the draft Constitution, which makes moderate corporal punishment of children constitutional, must be removed.



Awareness-raising and public education

The Swazi 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. In line with this, new comprehensive legislation on children should spell out the need for the relevant government departments to undertake all reasonable steps to ensure that public education and awareness-raising 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 Swazi government needs to allocate financial and human resources to develop manuals on how to implement non-violent methods of discipline in the classroom and to ensure that teachers receive training on children's rights and alternatives to corporal punishment. Training programmes for law enforcement officials and other officials caring for children should be implemented.

It should be explored how teacher training institutions could provide in-depth training on concepts such as children's rights, and ensure extensive training on how teachers can manage classroom discipline in a positive, non-violent manner.

The Swazi government, children's rights organisations and the media should strengthen efforts to create an understanding of and respect for children's rights. 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, 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.

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 taken into consideration 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 Swaziland 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 discipline.

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 draft Constitution provides for the establishment of a Commission on Human Rights. Such a Commission could play an important 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. It is also recommended that the Commission is 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

Save the Children Swaziland

The organisation promotes children's rights in Swaziland.

Tel: 404 3255/404 2573

Email: childsav@realnet.co.sz

Save the Children Sweden Regional Office for Southern Africa

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

Tel: +27-(0)12-341 11 86

Email: postmaster@za.rb.se

- Main report as well as summary report of the quantitative and qualitative survey of Swazi 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.

END NOTES

- 1 Clacherty, G., Donald, D. & Clacherty, A. (2005), *Children's Experiences of Corporal Punishment in Swaziland*, Pretoria, Save the Children Sweden.
- 2 Global Initiative to End All Corporal Punishment of Children (2005), *Ending legalised violence against children, Report for Caribbean Regional Consultation – the UN Secretary General's Study on Violence against Children*, London, Global Initiative to End All Corporal Punishment of Children.
- 3 Clacherty, G. et al op cit.
- 4 Ibid.
- 5 Ibid.
- 6 Ennew, J. & Plateau, D.P. (2004), *How to research the physical and emotional punishment of children*, Bangkok, International Save the Children Alliance.
- 7 Presentation by Carol Bower, RAPCAN, on the psycho-sexual consequences of corporal punishment to the South African Children's Bill Working Group, June 2004.
- 8 Dawes, A., Kafaar, Z. & de Sas Kropiwnicki, Z.O., Pather, R. & Richter, L. (2004), *Partner Violence, Attitudes to Child Discipline & Use of Corporal Punishment: A South African National Survey*, Cape Town, Child Youth & Family Development, Human Sciences Research Council.
- 9 Durrant, J.E., Ensom, R. & Coalition on Physical Punishment of Children and Youth (2004), *Joint Statement on Physical Punishment of Children and Youth*, Ottawa, Coalition on Physical Punishment of Children and Youth.
- 10 Clacherty, G. et al op cit.
- 11 Porteus, K., Vally, S. & Ruth, T. (2001), *Alternatives to corporal punishment – Growing discipline and respect in our classrooms*, Johannesburg, Heinemann Publishers (Pty) Ltd.
- 12 Ibid.
- 13 Ibid.
- 14 Clacherty, G. et al op cit.
- 15 Ibid.
- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Ibid.
- 20 Ibid.
- 21 Kassan, D. & Gallinetti J. (2005), *Report on the legal status of corporal punishment and other forms of humiliating and degrading punishment of children in South Africa, Swaziland and Zambia*, Cape Town, Community Law Centre.
- 22 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 = E 1 000/month or less, low-mid = E 1 001-3 000/month, mid-high = E 3 001-10 000/month, high = E 10 001/month or more.
- 23 Clacherty, G. et al op cit.
- 24 Ibid.
- 25 Ibid.
- 26 Ibid.
- 27 Ibid.
- 28 Ibid.
- 29 Ibid.
- 30 Ibid.
- 31 Ibid.
- 32 Ibid.
- 33 Ibid.
- 34 Ibid.
- 35 Ibid.
- 36 Ibid.
- 37 Ibid.
- 38 Ibid.
- 39 Ibid.
- 40 Ibid.
- 41 Ibid.
- 42 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.

- 43 HRI/GEN/1/Rev.4, page 108.
- 44 Kassan, D. et al op cit.
- 45 Ibid.
- 46 Ibid.
- 47 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.
- 48 Sloth-Nielsen, J. (2002), *Hitting Children is Wrong – a plea to end corporal punishment in South Africa*, Pretoria, Save the Children Sweden.
- 49 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.
- 50 Clacherty, G. op cit.
- 51 Sloth-Nielsen, J. op cit.

