



# ChildrenFIRST

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## **Re: Letter of Support - Objection to Corporal Punishment**

Date: 27 August 2007

Our mission is to promote and protect the rights and well being of children. We believe in South Africa that is 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 realised.

ChildrenFIRST objects corporal punishment in its entirety at school and in a home environment. Based on sound evidence from a wide range of children and NGOs in the children's ChildrenFIRST supports prohibition of corporal punishment for the following reasons:

- i) Evidence from across the country for many years has shown that the harsh treatment of children by parents, caregivers and relatives in a form of physical punishment is nothing less than child abuse. Thousands of children leave home each year and come to the streets because of this.
- ii) 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, in order to reintegrate them with their families. The basic family unit and the child's relatives should know that it is illegal to beat children. It is high time that perpetrators are called to account for it.
- iii) People use dangerous objects such as sjamboks and sticks to beat children. Children have objects thrown at them; things like vases, glasses and bottles with the intention of inflicting pain and serious body injuries. They are unacceptable for punishing children. 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.**

ChildrenFIRST as part of the Children's Bill Working Group presented at the Children's Bill Public Hearings in KwaZulu Natal in October 2006 particularly on this subject. Prior to the presentation ChildrenFIRST conducted a series of workshops with children in attempt to get their views and feelings about corporal punishment. Below is testimony a 12year old boy Gundi\* who has lived and begged in the streets; housed in a street shelter and in the process of being rehabilitated and prepared for family reunification. He presented at the KZN Public Hearings alongside ChildrenFIRST in October 2006. He had his fair share of corporal punishment and this is what he had to say:

"My name is GUNDI ... I want to tell you why many of us have left home ... It's 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, step-fathers and step-mothers and our fathers, sometimes

they take big sticks or sjamboks to hit us. They beat us very hard for small things, like breaking a glass or not washing the dishes, It is too much. 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 (with chili spray) in our eyes and hit us. When we want to report a case, like getting raped or our money being stolen they chase us away. 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..."

\* Name changed to protect identity

***Experience throughout the country with children who come to the streets, makes it clear that tens of thousands of parents, caregivers and 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.***

**Ends**

**Nokuthula Magudulela  
Director: ChildrenFIRST**

**FOR YOUR INFORMATION FIND BELOW CHILDRENFIRST'S SUBMISSION TO THE CHILDREN'S AMENDMENT BILL:**

**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.

**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.

**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 more accountable.

The shortage of about 11,000 social workers in South Africa can be offset by the 8,000 trained Child and Youth Care Workers available.

More can be trained rapidly and the courses also go up to Masters level. We do not have to provide second rate services for children on the streets.

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

Moving shelters from Chapter 14 to Chapter 13 will require 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); and
- deleting all references to shelters in Chapter 14.

**And lastly,**

**services for drop in centers that provide services for children who live and work on the streets should not be allocated to municipalities.**

**CHAPTER 14 Clause 225 (1) allows this.**

However, services are NOT allocated anywhere in the Children's Amendment Bill for other children in need of care and protection, to municipalities.

ChildrenFIRST believes that

- the first commitments 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.

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 the following amendments be made in Chapter 14 in the Children's Amendment Bill, in regard to drop in centers:**

The definition of drop in centers should be amended (

Minimum norms and standards list what is actually now done in accredited organizations

The clause that grants powers and duties of running drop in centers for children who live and work on the streets to municipalities should be deleted.

## **APPENDIX**

Recommended amendments to the Children's Amendment Bill

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| NB: Delete bold wording and square brackets. Insert underlined wording |
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CLAUSE INSERTION: CORPORAL PUNISHMENT: CHAPTER 6 Part 4

Clause 139 ( ) No person may administer corporal punishment to a child who is living in the home environment.

RELOCATING SHELTERS FROM CHAPTER 14 TO CHAPTER 13

CHAPTER 13: Child and youth care centres

191 (1) ...

(a) ...

(b) ... a **(shelter or)** drop-in centre

CHAPTER 14: **(SHELTERS AND)** DROP-IN CENTRES

CHAPTER 14: Delete all references to shelters

**(Shelters and)** Drop-in centers

213. ((1) A shelter is a facility located at a specific place which is managed for the purpose of providing basic services, including overnight accommodation and food, to children, including street children, who voluntarily attend the facility but who are free to leave.)

(Establishment of shelters and drop-in centers)

214. (1) Shelters and drop-in centers established by an organ of state, designated child protection organisation or non-governmental organisation only qualify for funding from money appropriated by a provincial legislature if it complies with the national norms and standards mentioned in subsection (2).

(2) The Minister must determine the national norms and standards after consultation with the MEC's for Social Development, the Financial and Fiscal Commission and the Minister of Finance.)

DELETING MUNICIPAL POWERS AND DUTIES

FOR CHILDREN IN NEED OF CARE AND PROTECTION: CHAPTER 14: DROP-IN CENTRES

Assignment of functions to municipality

(225. (1) The provincial head of social development may, by agreement with a municipality, assign the performance of some or all of the functions contemplated in sections 215, 217, 218, 219, 221 and 222 to the most senior official responsible for social welfare services in the municipality if the provincial head of social development is satisfied that the municipality has the capacity to perform the functions concerned.

(2) The senior official referred to in subsection (1) may delegate any power or duty assigned to him or her in terms of this section to an official in the employ of the municipality.

(3) A delegation in terms of subsection (2)—

(a) is subject to any limitations, conditions and directions which the delegating official may impose;

(b) must be in writing; and

(c) does not divest the delegating official of the responsibility concerning the exercise of the power or the performance of the duty.

(4) The delegating official may—

(a) confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, subject to any rights that may have accrued to a person as a result of the decision; and

(b) at any time withdraw a delegation.

(5) An applicant aggrieved by a decision of an official in the employ of a municipality with regard to the consideration of an application for registration, conditional registration or renewal of registration in terms of section 219, or the conditions on which registration was granted in terms of section 221, or a registration holder aggrieved by a decision of a provincial head of social development to cancel the registration of a shelter or drop-in centre in terms of section 222 may—

(a) lodge an appeal with the municipal council against that decision; or

(b) apply to the competent division of the High Court to review that decision.)

DEFINITION: DROP-IN CENTRE: CHAPTER 14

((2)) (1) A drop-in centre is a facility located **(at a specific place)** in a place accessible to children at risk which is managed for the purpose of providing basic services, excluding overnight accommodation, to children, **(including street children)**, who voluntarily attend the facility **(but who are free to leave)**.

MINIMUM NORMS AND STANDARDS: DROP-IN CENTRE: CHAPTER 14

220 (1) Premises used as a drop-in centre must -

(a) make an immediate assessment of the needs of the child and the possibility of family re-unification;

(b) attend to referral of child to external developmental agencies;

(c) keep a daily register of all children with monthly reporting to the department of social services;

(d) have suitably qualified staff available during opening hours.

220 (2) A drop-in centre must provide, in accordance with the prescribed standards, programmes for the children in its care. These programmes must include:

- (a) a development and treatment plan;
- (b) a family reunification or other appropriate placement programme;
- (c) access to education;
- (d) access to health services;
- (e) access to social development services; and
- (f) any other prescribed programme or service.

220 (3) Premises used as a drop-in centre must have—

- (a) a safe area for the children to play;
- (b) adequate space and ventilation;
- (c) safe drinking water;
- (d) hygienic and adequate toilet facilities;
- (e) access to disposal of refuse services or other adequate means of disposal of refuse generated at the shelter or drop-in centre; and
- (f) a hygienic area for the preparation of food for the children.

Ends

**Submitted by**  
**Nokuthula Magudulela**  
**Director: ChildrenFIRST**