Promoting a human rights culture through disciplining children appropriately

It is every child’s right to grow up in a home free from violence and conflict. Judith Cohen, parliamentary officer of the South African Human Rights Commission, reports on what society needs to do – and is doing – to achieve this.

The South African Human Rights Commission (SAHRC) is deeply concerned about the high levels of violence and conflict in the country – violence and conflict which permeate all levels of society and know no boundaries in terms of gender, race or class. If we strive for a society in which the constitutional values of human dignity, equality and the advancement of human rights and freedom are to be achieved, we need to look broadly at society and establish which issues must be addressed in order to create a shared culture of constructively dealing with and eradicating conflict. This work is part of the Commission’s constitutional mandate to promote respect for and a culture of human rights.

The most important place where social values and practices can be changed is in the home. We need to question the manner in which we raise our children. Is there a way of doing this differently that will better promote our constitutional values? It is for these reasons that the Commission supports the important work that is being conducted within a human rights framework at an international, regional and national level, namely, that which looks at violence against children, questions the use and legality of corporal punishment and promotes appropriate forms of discipline.

In January 2006 a week-long series of events focusing on appropriate discipline was arranged. Peter Newell, an internationally recognised expert on corporal punishment and coordinator of the Global Initiative to End All Corporal Punishment of Children, visited Cape Town to participate in the events and share his knowledge and expertise.

The main event of the week was a round-table discussion, co-hosted by the SAHRC and RAPCAN, entitled “Appropriate Discipline in a Constitutional South Africa”. The round-table came at an important time in the development of legislation that aims to protect children’s rights. In December 2005, parliament finally passed the section 75 version of the Children’s Bill which carries no reference to corporal punishment. Thus corporal punishment within the private domain of the home is still legally tolerated in South Africa, provided that it does not exceed the boundaries of reasonable and moderate chastisement. During 2006, the section 76 version of the Children’s Bill will be processed through parliament and the opportunities that this will provide for law reform need to be considered.
On 8 May 2006 South Africa celebrated the 10th anniversary of its Constitution. It is this Constitution that provided the basis for the prohibition on corporal punishment in schools and as a sentence in criminal matters. The Constitutional Court in two important cases applied sections 10 and 12 of the Constitution in reaching decisions that have gone a long way to protect children from violence and an infringement of their bodily integrity.

We trust that the Constitution will also form the basis for a prohibition on corporal punishment in the home. We hope it would not be necessary for the Constitutional Court to pronounce on this, as litigation should always be a last resort. Instead, we hope the government takes the initiative to effect a prohibition through law reform and the Children’s Bill. It is unfortunate that the section 75 version of the Children’s Bill that was passed by the National Assembly on 14 December 2005 was silent on the issue of corporal punishment in the home. Deliberations regarding the section 76 version of the Bill are however still awaited and present an opportunity to address the issue of corporal punishment in the home.

However, we have to acknowledge that a call for the prohibition of corporal punishment in this sphere is controversial, as evidenced by the article on the views of religious bodies in Zambia by Judith Mulenga and Mwansa Pintu. This article is indicative of the advocacy and awareness-raising that would need to take place to create an understanding of the negative effects of corporal punishment, and that respect for the rights of the child is an overarching consideration.

Efforts to advocate for the prohibition on corporal punishment in the home are ongoing. In January 2006 a series of events took place to promote informed debate on the issue and create a platform for information-sharing. One of these events was a regional workshop that included representatives from South Africa, Zambia, Botswana, Swaziland and Lesotho. It resulted in various action plans focused on a Southern African advocacy initiative in addition to the country-specific ones already under way.

On a different note we wish to bid farewell to Vuyisile Mathiti who has resigned from our editorial board for work reasons – we extend our heartfelt thanks for his valued contributions. As a result we welcome a new member to the board – Judith Mulenga of the Zambia Civic Education Association. We trust that she will assist us greatly in our efforts to promote information dissemination and informed debate on all issues relating to the corporal punishment of children.

The round-table was addressed by a number of speakers:

- Daksha Kassan gave an overview of legal developments in relation to corporal punishment in South Africa.
- Ann Skelton spoke about the constitutional issues which corporal punishment raises and how the Constitutional Court may approach the matter.
- Peter Newell provided information on international developments, including the United Nations Global Study on Violence against Children, which is due for release later this year.
- Joan van Niekerk discussed parents’ responses to being challenged on how they discipline children.
- Andy Dawes provided input on the psychological effect physical and degrading forms of punishment have on children.

From the discussions that followed, it is clear that changing social practices and laws in relation to corporal punishment in the home continues to be a challenging task. The debate needs to be carefully located and expressed in order to clearly articulate the child’s underlying rights to dignity and living in an environment free from violence. There was a clear commitment from the attending representatives of the Department of Social Development, indicating that the department supported the prohibition of physical, degrading and humiliating forms of punishment in the home.

The round-table was preceded by a Western Cape provincial advocacy strategy meeting, hosted by RAPCAN. It was well attended and strategies were devised around advocacy and lobbying for a ban on corporal, humiliating and degrading forms of punishment. The SAHRC hosted a children’s workshop at Kirstenbosch where a diverse group of approximately 30 children expressed their views on corporal punishment and discipline through fabric painting. The artwork was displayed by means of two wall hangings at the round-table. These wall hangings will remain on permanent display at the SAHRC’s Cape Town office and RAPCAN’s offices as a symbol of the joint work between the two organisations and a reminder of what still needs to be done.

Finally, the week’s events concluded with a two-day regional workshop, attended by 16 participants from Botswana, Lesotho, Swaziland, Zambia and South Africa. This workshop, which was hosted by RAPCAN and sponsored by Save the Children Sweden, developed a regional strategy to address corporal punishment in Southern Africa.

These events clearly illustrate that, in carrying out advocacy and lobbying, there needs to be a shift in the language and approach used when discussing discipline and children. There needs to be a move away from centering the debate on smacking and hitting and the rights of parents to a dialogue about positive discipline in an environment that respects children’s rights and is supportive of the family and parents. The dialogue needs to promote the dignity of all and, most importantly, the dignity of children and their rights to live in an environment free from violence, humiliating and degrading treatment or punishment. In addition, the benefits of positive discipline need to be promoted. There is clearly an overwhelming need for education and raising awareness in society.