



Umphakathi Okhathazekile Concerned Young People of South Africa

CYPSA

NPO Reg No: 078 436

Caring for our future

COMMENTS ON THE CHILDREN'S THIRD AMENDMENT DRAFT BILL (Closing date for comments: 7 September 2018)

TO: Ms Sarah Mabasa
DSD Chief Directorate: Children's Legislation, Monitoring and Reporting
Per e-mail: SarahMab@dsd.gov.za

AND TO: Ms Mahlogonolo Sebopela
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FROM: Dr Elfrieda Fleischmann on behalf of CYPSA
E-mail: secretary@cypsa.org.za

DATE: 5 September 2018

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On behalf on our members, Concerned Young People of South Africa (CYPSA) thanks the DSD Chief Directorate for the invitation to comment on the Children's Third Amendment Draft Bill ("the Bill").

CYPSA commends the Department of Social Development (DSD) for what seems a *bona fide* effort to prevent and combat physical violence against, or abuse, of children in the home for which there can never be an excuse.

However, working with mostly rural and vulnerable people especially those of poor social-economic standing and marginalized groups and communities, we would like to highlight some points of concern for your consideration.

POINTS OF CONCERN:

With reference to section 8 of the Children's Third Amendment Draft Bill (i.e. the section that proposes a complete ban on physical chastisement in the home);

1. Within these communities, there is a noteworthy difference between *reasonable and moderate parental chastisement*, where correction is motivated by love and is in the best interest of their child, and that of *physical violence or abuse*. Many credible findings and much research suggests that reasonable and moderate chastisement is *not harmful* to children and may in fact be *beneficial*.

2. CYPISA is concerned that section 8 of the Bill, if implemented, would:
 - 2.1. **Violate Parental rights** and erode the rights of parents to decide for themselves – in accordance with their own convictions – what is in the best interest of their children. This bill would disempower parents, thus making their children state property.
 - 2.2. **Violate the constitutional right to religious freedom** of those parents who believe according to their Scriptures or holy writings permit (if not instruct) them to use reasonable and moderate chastisement as one of the methods for raising and disciplining their children.
3. CYPISA is concerned that section 8 of the Bill, if implemented, will potentially have the **effect of criminalising good and well-intentioned parents** who love their children. While this may not be the intention of the Bill, the reality is that the removal of the reasonable chastisement defense means that any form of physical discipline of a child may well fall within the legal definition of an assault and therefore be liable to criminal prosecution. CYPISA foresees an escalation of court cases, which may saturate the courts with cases of less importance, whilst severe cases of violence and abuse may be further postponed. It is an established fact that in countries like New Zealand, Sweden ([see article](#) & [global study](#)) and especially Norway ([follow audio clip from BBC](#)), where corporal punishment is banned, hundreds of parents have been arrested, prosecuted and had their children forcefully taken from them, with devastating effects on the harmony of the family unit, whilst severe cases of violence and abuse do not receive a timeous hearing, and were in fact escalating.

4. CYPISA is concerned that the section 8 of the Bill if implemented will **redirect available funds away from cases that are at risk** and redirect these funds towards the training of intervention and court cases involving parents and families that are not actually at risk (such as with cases of well-intentioned parents who discipline their children within reasonable and moderate limits). Such funding should rather be directed towards those families and communities that are truly vulnerable and in need of such intervention. We are concerned about possible *wasteful expenditure* on training intervention and court cases involving parents and children that are not actually at risk.

RECOMMENDATION:

In all the circumstances, CYPISA respectfully requests that section 8 should be

- deleted from the Bill altogether
- OR
- should be re-drafted with a view to defining *the boundaries of reasonable and moderate chastisement* (i.e. “the calibration approach” as applies in, for example, Canada and the United Kingdom).

CYPISA further requests that you keep me informed of developments with regard to the Bill, and in particular of any opportunity to make further written and/or verbal submissions in this regard.

Sincere regards,

Dr Elfrieda Fleischmann

PhD, MEd, PGCE, BSc Hon (pharmacology), BPharm



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Norway's Silent Scandal

In April this year, a highly respected Norwegian child psychiatrist was convicted of downloading thousands of images of child pornography. The psychiatrist had been used as an expert, until his arrest, by Norway's controversial child protection system and was involved in decisions about whether children should be removed from their parents. Campaigners in Norway have long accused the system of removing children from their parents without justification and now, despite the serious nature of this man's offence, the authorities are refusing to review the child protection cases he gave evidence in. For Our World, Tim Whewell has been to Norway to try to discover why child protection in one of the world's wealthiest countries appears to be in crisis. This programme contains adult themes.

🕒 30 minutes

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Our World: Norway's Silent Scandal

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