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Corporal punishment: Discussion calls for effective alternatives

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HILDREN need discipline. Firm discipline. Consistent discipline. Discipline to help teach them the difference between right and wrong.

But children do not need discipline beaten into them. The use of corporal punishment is popular because it is fast and gives immediate compliance. But what of the long-term effects?

Studies across the world show that the use of corporal punishment can result in children displaying antisocial behaviour and increased aggression. The aim of discipline is to teach a child the difference between right and wrong, but corporal punishment does not do this.

Take the situation when a child hits another child. What is more ironic than using force to teach a child that violence is wrong?

Whether or not corporal punishment should be used in Namibia is a hotly debated subject. Some people argue that it is the only form of effective discipline, whilst others are firmly behind alternatives to corporal punishment: gI go with you 100 per cent, say no to corporal punishment! h (an sms sent to the LAC).

The debate about corporal punishment has two contexts – the use of corporal punishment in schools and the use of corporal punishment in the home. Here, we discuss the use of corporal punishment in schools in light of the recent debate about this issue.

Article 8 of the Namibian Constitution states that gThe dignity of all persons shall be inviolable h and that gNo persons shall be subject to torture or to cruel, inhuman or degrading treatment or punishment h.

Shortly after Independence, the Namibian Supreme Court found that the use of corporal punishment in schools violates this Constitutional right to dignity. The court cited six reasons for its conclusion.

1. Every human being has an inviolable dignity. A physical assault on him sanctified by the power and the authority of the State violates that dignity. His status as a human being is invaded.
2. The manner in which the corporal punishment is administered is attended by, and intended to be attended by, acute pain and physical suffering 'which strips the recipient of all dignity and self-respect' c
3. The fact that these assaults on a human being are systematically planned, prescribed and executed by an organised society makes it inherently objectionable. It reduces organised society to the level of the offender. It demeans the society which permits it as much as the citizen who receives it.
4. It is in part at least premised on irrationality, retribution and insensitivity. It makes no appeal to the emotional sensitivity and the rational capacity of the person sought to be punished.
5. It is inherently arbitrary and capable of abuse leaving as it does the intensity and the quality of the punishment substantially subject to the temperament, the personality and the idiosyncrasies of the particular executioner of that punishment.
6. It is alien and humiliating when it is inflicted as it usually is by a person who is a relative stranger to the person punished and who has no emotional bonds with him.

The Court ruled further that this reasoning applied equally to adults and juveniles, and to school settings as well as criminal justice ones.

The Constitutional court ruling on corporal punishment was subsequently confirmed by Parliament in legislation. The Education Act of 2001 clearly forbids the use of corporal punishment in state or private schools in section 56: gA teacher or any other person employed at a state school or hostel or private school or hostel commits misconduct, if such teacher or person, in the performance of his or her official duties imposes or administers corporal punishment upon a learner, or causes corporal punishment to be imposed or administered upon a learner. h

Parliament acted to bring the law governing schools in line with the Constitution, and the law is very clear.

The upshot is that to argue in favour of greintroducing h corporal punishment is to argue that the Constitution of Namibia is wrong. And Article 8 is entrenched against being weakened; it is one of the fundamental freedoms, and Article 131 says that these may never be amended in a way which would diminish them. They enshrine principles that have become the cornerstones of a democratic and independent Namibia – they are the very foundation of the nation.

Furthermore, the process of rolling back rights for children could be the thin end of the

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acceptable to beat a woman, will it become acceptable to beat an employee? Is violence really the only way we can find to deal with problems in an era where we are trying to sustain peace in Namibia?

It is doubtful that the politicians who call for bringing back corporal punishment in Namibia would be willing to throw our entire Constitution out the window in order to do that. Therefore the debate about corporal punishment must move from beyond whether or not to use corporal punishment to how to best discipline children. Discussion is needed about how children can be effectively disciplined and taught the moral values that make up the fabric of Namibia. What can parents do to improve the behaviour of their children so that teachers in school have learners who already have a high level of self-discipline? What can community leaders, pastors, social workers and other interested parties do to teach communities about alternatives to corporal punishment?

Teachers are crying out for help in Namibia to deal with under-resourced facilities, excessively large class sizes and a lack of discipline. Bringing back corporal punishment will not help solve these problems. The abolition of corporal punishment in schools was not an abolition of discipline, but rather a move towards a better way of disciplining the children of Namibia. But nearly twenty years after the pivotal court ruling that outlawed the use of corporal punishment in schools, our society has failed to popularise a better way. However it still can.

Shortly after the Supreme Court made its ruling in 1991, the Ministry of Education and Culture published a manual for trainers on alternatives to corporal punishment and two booklets on this topic for teachers. These resources provided excellent, practical advice on alternatives to corporal punishment in schools. Perhaps it is time to intensify the commitment to assisting teachers to become familiar with those techniques.

Children need discipline. But there are many options for effective discipline, and our focus should be on developing those alternatives.

And to those people who say that corporal punishment never harmed them, we can only say that you will never know who you might have become without it.

* Dianne Hubbard and Rachel Coomer are with the Gender Research & Advocacy Project of the Legal Assistance Centre. Next month, the LAC will release a report entitled Corporal Punishment: National and International Perspectives. Contact gkapere@lac.org.na to order a copy.

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