

PROHIBITING CORPORAL PUNISHMENT DOES NOT MEAN CRIMINALISING PARENTS

A fact sheet to counter the claim that parents will be criminalised



Sonke Gender Justice is a non-partisan, non-profit organisation, established in 2006. Today, Sonke has established a growing presence on the African continent and plays an active role internationally. Sonke works to create the change necessary for men, women, young people and children to enjoy equitable, healthy and happy relationships that contribute to the development of just and democratic societies. Sonke pursues this goal across Southern Africa by using a human rights framework to build the capacity of government, civil society organisations and citizens to achieve gender equality, prevent gender-based violence and reduce the spread of HIV and the impact of AIDS.

MENCARE

MenCare – A Global Fatherhood Campaign – is coordinated by Promundo, Sonke Gender Justice (Sonke) and the MenEngage Alliance, as an effort to promote men's involvement as fathers and as caregivers. It seeks to provide support materials, messages, policy recommendations and research to encourage local MenEngage partners, NGOs, women's rights organizations, governments and UN partners to implement campaign activities in their settings.

MenCare is conceived as a complement to global and local efforts to engage men and boys in ending violence against women and girls. Together with efforts like the White Ribbon Campaign, it is part of the MenEngage Alliance's global vision to achieve equitable, non-violent relationships and caring visions of what it means to be men.

From a MenCare perspective, the prohibition of corporal punishment in all settings, including the home, is integral to efforts to create change of this nature.



THE FACTS

- 1 Unfortunately, **children routinely do not report** the most egregious harm done to them; it is highly unlikely that they will beat a path to the door of the police station because someone smacked them.
- 2 In any event, South African law operates on the principle that the law does not concern itself with **that which is trivial** (*de minimis curat lex*) which applies equally to adults and children who have been subject to less serious assaults.
- 3 Imprisonment of their parents is **seldom in children's best interest**, and will only happen where corporal punishment has been severe enough to cause injury, and in the best interests of the child in question.
- 4 The majority of the current international country-level bans on corporal punishment are housed within the family code, not the criminal code, and thus do not have criminal penalties and rather tend to require community service or supervision. The **bans are viewed as educational** and thus as a means of encouraging citizens to avoid this risky behaviour.
- 5 The National Prosecuting Authority confirmed in 2007 that, in the unlikely event that a child reports being smacked or hit at home, the most likely outcome is an admission of guilt fine, as is the case with common assault. Thus, **no criminal record** is attached to the perpetrator.
- 6 The Children's Act provides clearly for prevention and early intervention programmes that are aimed at **"developing appropriate parenting skills** and the capacity of parents and care-givers to safeguard the well-being and best interests of their children, including the promotion of positive, non-violent forms of discipline" (section 144 [1] [b]). **It is to these that parents using corporal punishment will be referred.**

THE MYTH

"If we ban corporal punishment in the home, we will make criminals out of parents."