

Court declares corporal punishment unconstitutional

The Department of Social Development has welcomed the Constitutional Court judgment ruling that spanking children is unlawful and unconstitutional.



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The court made the unanimous judgment on Wednesday.

In a statement, Social Development said the ruling confirmed the department's position that the common law defence of reasonable chastisement, commonly referred to as spanking, is unlawful and unconstitutional.

"This progressive judgment, which upholds the best interest of the child - as enshrined in the Constitution and the Children's Act - further confirms the department's contention that the use of any form of violence to discipline children is at variance with the supreme law of the land," said department spokesperson Lumka Oliphant.

She said spanking is also inconsistent with various pieces of legislation and regional and international obligations that South Africa has ratified to prevent child abuse, neglect, maltreatment and degradation, particularly in a violent society such as ours.

“Over the years and through child participation initiatives such as the annual Nelson Mandela Children’s Parliament, South African children have been pleading with the department as the custodian of the Children’s Act to move with speed to outlaw the reasonable chastisement, which they regarded as another form of violence against them,” the department said, adding that the judgment is a victory for children because reasonable chastisement cannot be justified as a form of positive discipline for children.

Oliphant said the department is working with civil society organisations to implement the White Paper on Families, which proposes positive parenting programmes that protect children from family violence, abuse, neglect and exploitation.

“The department is committed to continue working with all stakeholders to raise awareness and to scale up positive parenting programmes and other interventions that uphold the best interest of the child as per the Constitutional Court judgment,” she said.

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