

Analysis of the Information on Physical and Humiliating Punishment (PHP) Obtained under RTI Act, 2009 by BLAST

Findings, Achievements, Barriers, Challenges

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LIST OF ACRONYMS AND ABBREVIATIONS

ASK	Ain O Salish Kendra
BLAST	Bangladesh Legal Aid Services and Trust
PHP	Physical and Humiliating Punishment
RTI	Right to Information
UNO	Upazila Nirbahi Office

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INTRODUCTION

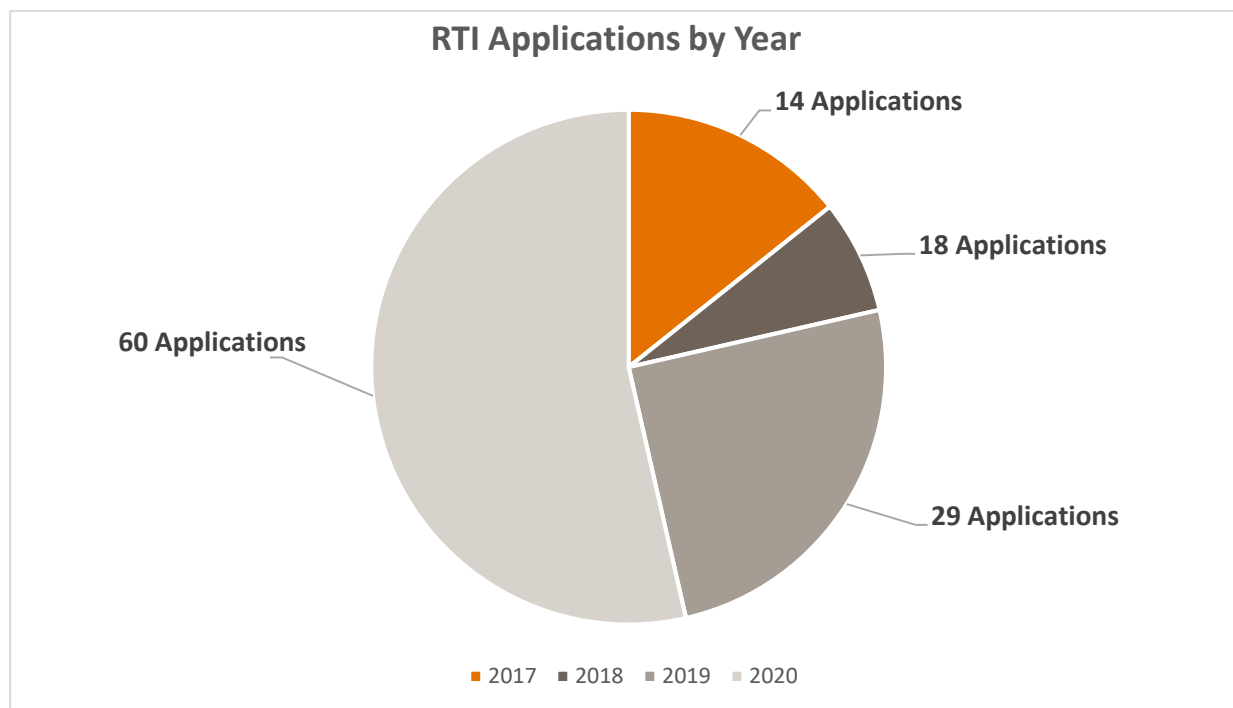
BACKGROUND

Physical and humiliating punishment is a deep-rooted social problem in Bangladesh. BLAST and Ain o Salish Kendra (ASK) filed a writ petition in 2010 challenging the systematic failure of the Government to take action regarding repeated and severe incidents of corporal punishment, including caning, beating and chaining of children by teachers in schools and madrasas, based on news reports published in national dailies. In 2011 the High Court in a milestone Judgment declared a highly prevalent form of corporal punishment -- in educational institutions – to be “illegal and unconstitutional”. In compliance with this ruling, the Education Ministry issued a ***Circular prohibiting corporal punishment in educational institutions dated 9th August, 2010***, and new ***Guidelines prohibiting both physical and psychological punishments*** dated 21 April, 2011. These together mandated protection of students, authorized action against perpetrators as required, and provided for teacher training, among others. After years since the pronouncement of this Judgment BLAST has taken initiative by submitting application under the Right to Information Act, 2009 (RTI Act) to various concern government authorities for information during 2017 to 2020 to understand the implementation situation of the High Court Judgment as well as the directives of the Ministry. This report aims to analysis Information requests on Physical and Humiliating Punishment (PHP) related matters submitted by BLAST to the various Government Authorities and their responses the Right to Information Act, 2009 and finds out its achievements, briars and Challenges.

The Right to Information Act, 2009 (RTI Act) of Bangladesh was adopted on March 29, 2009 and notified in the Bangladesh Gazette on the April 6, 2009. Right to information is harnessed as a tool for promoting participatory development, strengthening democratic governance and facilitating effective delivery of socio-economic services. As per Section 4 of the RTI Act, 2009, *‘every citizen has a right to information from the authority and the authority shall on demand from a citizen be bound to provide information’*.

BLAST has been applying the RTI Act, 2009 from the years 2017 to 2020, for the purpose of ascertaining the current situation of the measures taken to prevent physical and humiliating

punishment on children. The research of BLAST deals with several questions like whether the acts under the existing laws of prohibition of physical and mental punishment are being followed at all District, Upazila and Union levels; whether the directives are being discussed actively in the major meetings; whether those are being followed; whether actions are being taken against the liable ones. Inquiry was also made about the complaints received and filed and also about the actions taken to promote the law.



METHODOLOGY

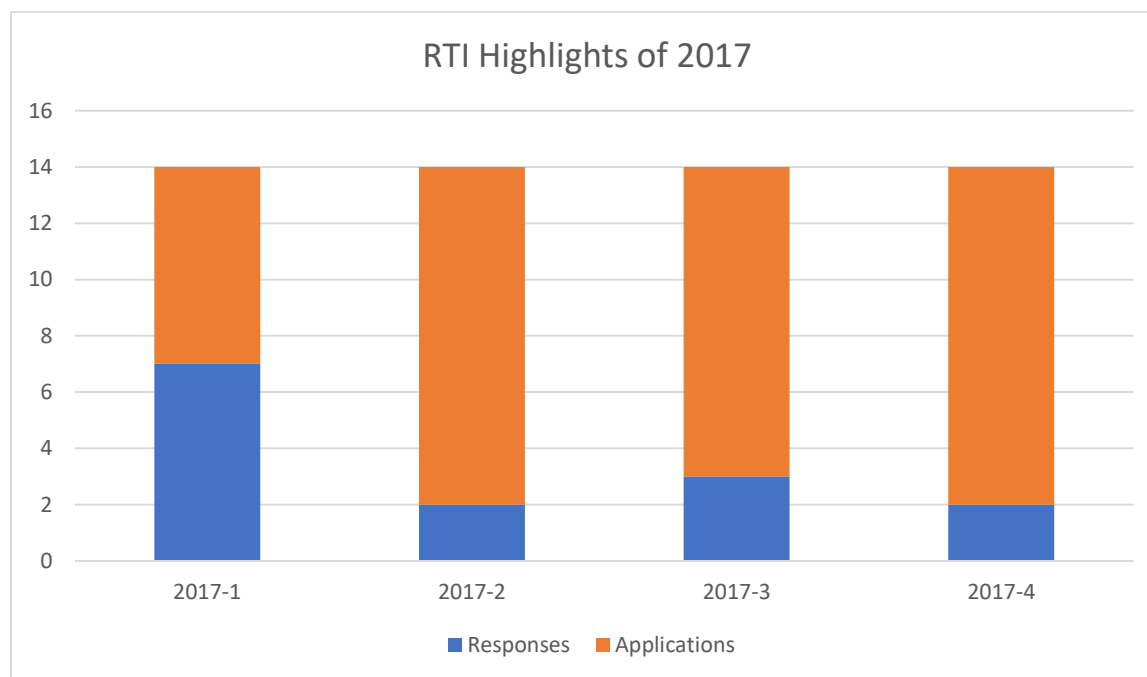
The analysis report adopted qualitative method applying desk review and content analysis. The desk reviews was relevant law and policy analysis and the content of the RTI applications over the period of 2017-2020 filed by BLAST to different government authorizes to find out current the implementation status of the directives of the Judgment on corporal punishment and its responses provided by the different government authorities.

FINDINGS, ACHIEVEMENTS, BARRIERS, CHALLENGES

RTI on PHP issues Highlights of 2017

In 2017, 14 applications in total were submitted to different authorities of Dhaka, Faridpur, Chittagong, Rajshahi, Barisal, Khulna, Rangpur and Sylhet. The basic inquiries this year were (1) whether the acts prohibited by the High Court as PHP was followed properly; (2) whether the directive regarding the prohibition of physical and humiliating punishment has been discussed during March 2016 to June 2017 on every coordination meeting; (3) whether the directive is being complied with and whether steps are being taken against liable teachers; (4) whether the issue has been included in the quarterly Upazila law enforcement meetings; (5) whether the best school regarding “no more physical and mental punishment in school” has been elected.

The types and numbers of responses regarding the inquiry of the prohibition of physical and mental punishment in schools from different districts are as follows:



2017-1: Directives are Followed, Discussed and Rewarded 2017-2: Law Not in Use
 2017-3: Case Filed and Action Taken 2017-4: No Response

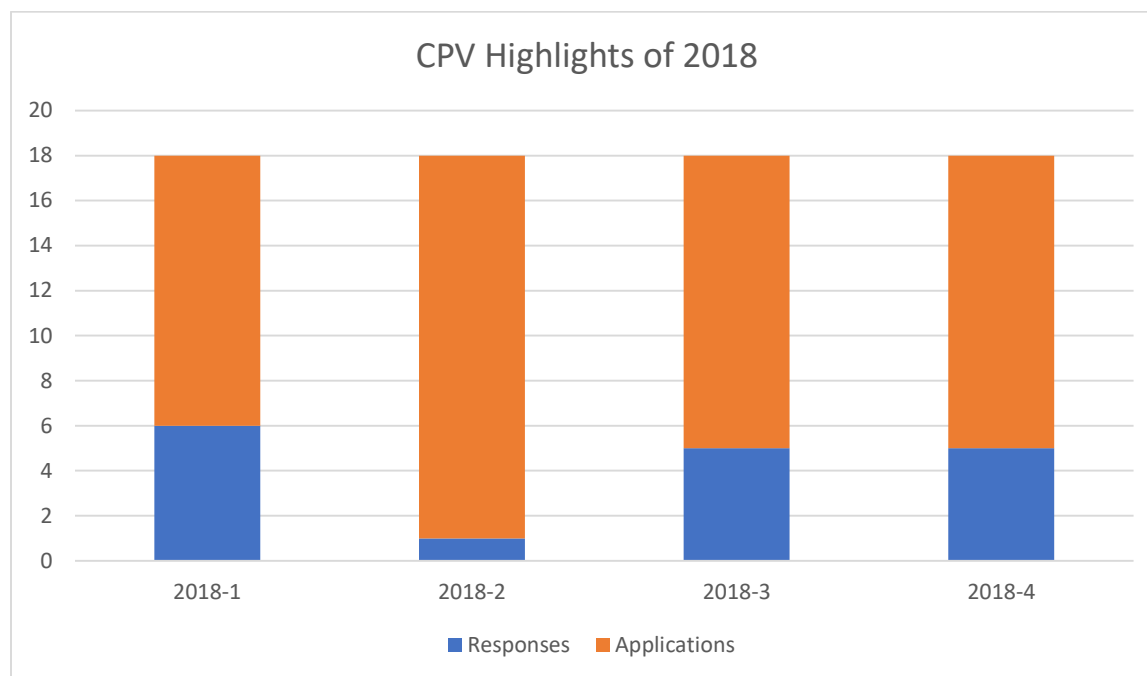
According to the findings, there were 7 applications where the directives given by the ‘Act of Prohibition of Physical and Mental Punishment’ were followed and discussed in the meetings between March 2016 to June 2017, by the District Education Officers in Dhaka, Rajshahi, Faridpur, Barishal, Khulna, Rangpur and Sylhet from time to time. In one particular case, the best school was elected for following the rules properly and 3 cases were filed where actions were taken afterwards in Rajshahi. However, the finding tells that the law is not in use by the Ministry of Railways in Dhaka and by the District Administration, Upazila Nirbahi Office in Faridpur. There was no response at all from the District Education Officer of Chittagong.

Some of the districts are not well aware of the corporal punishments. The authorities under Right to Information Act are not aware of it. The Ministry of Law, Justice and Parliamentary Affairs did not have any information regarding the Whipping Act, 1909. Therefore, the ministries should have had complete knowledge on the RTI Act.

RTI on PHP Issues Highlights of 2018

In 2018, there have been 18 applications on 4 topics in 4 districts, which are in Dhaka, Chittagong, Rajshahi and Faridpur. Queries were made to know the followings (1) ascertain the current status of the issue regarding the prohibition of physical punishment in the quarterly Upazila Law Enforcement Committee meetings presided by the Upazila Nirbahi Officer (UNO); (2) the number of complaints that have been received regarding physical and humiliating punishment; (3) number of cases have been filed regarding the physical and mental punishment in educational institutions.

The types and numbers of responses regarding the inquiry of the prohibition of physical and mental punishment in schools from different districts are as follows:



2018-1: No Documentation/ No Discussion

2018-2: Implementation of the Law

2018-3: Complaints Received and Cases Filed

2018-4: No Complaints have been Received

In response to the RTI applications of BLAST, it was found that 6 responses from the Deputy Commissioner of Rajshahi and Dhaka; Upazila Parishad of Sitakundu, Chittagong; Deputy Commissioner of Chittagong, Upazila Parishad – Paba, Rajshahi and Lohagara, Chittagong had no documentation or discussion on Decision No. 4.8 of the directives issued by the Ministry of Primary and Mass Education. The implementation of the law was done in only Dhaka by the Ministry of Primary and Mass Education. A total of 7 cases were filed in District and Session’s Court of Dhaka and Faridpur, and Metropolitan Session Judge Court of Dhaka; out of which 2 cases were exempted, 2 cases have been settled, 1 acquitted, 1 has been asked for subsequent hearing and the proceeding of the last 1 is still continuing. No complaints were received from the Ministry of Home Affairs and the Ministry of Education. Additionally, no complaints were received from Dhaka Metropolitan Police and District Education Officer – Rajshahi and District Education Officer – Chittagong as well.

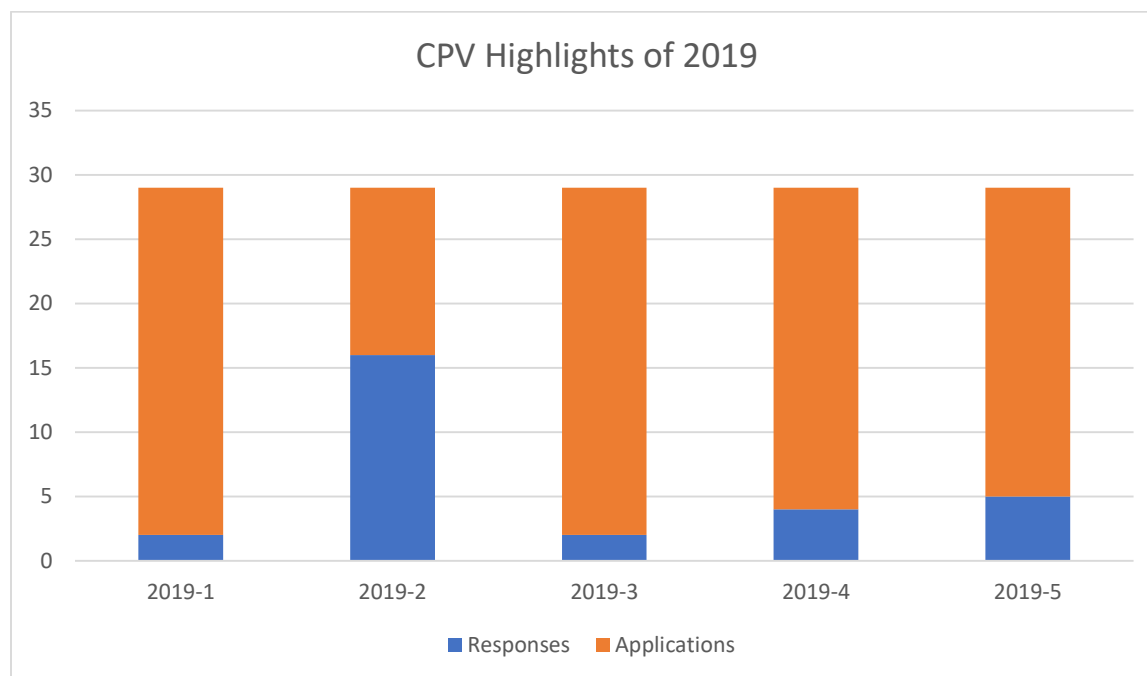
It appears that, as per the provisions and powers of Designated Officers in the RTI Act they have the independence to provide information without consultation with any higher authority. However due to the administrative and bureaucratic tradition of the government which has become

institutionalized most Designated Officers feel the need to refer to other officers thereby delaying service, which happened in Metropolitan Session Judge Court of Chittagong. Although there is clear direction in the RTI Act about publication of information regularly, the government institutions are not showing enough initiatives to make public their information. Most offices especially government bodies do not have proper information storage facilities whether electronic or hardcopies. Therefore, in order to implement the RTI act properly, the government offices should have proper information storage facilities as well as Government Officials should have full knowledge on the RTI Act.

RTI on PHP Issues Highlights of 2019

BLAST has been applying the Right to Information Act, 2010 for the purposes of ascertaining the current situation of the measures taken to prevent physical and mental punishment on children, ensuring the effective monitoring of the implementation of Government circular and direction, and raising awareness of information preservation. As a part of this endeavor, in 2019, BLAST has submitted 29 applications to various authorities of Rangpur, Pabna, Sylhet, Faridpur, Khulna, Cumilla, Feni, Rajshahi, Mymensingh, Gazipur, Barisal, Chittagong, Jessore, Dhaka. Queries were made to know the (1) current situation of the implementation of section 70 of the Children Act, 2013; (2) whether any chapter regarding physical and mental punishment on children has been included in the teachers' training curriculum of the Government Teachers' Training Colleges; (3) the number of complaints regarding physical and mental punishment on children received in last 1 year and the steps taken thereby.

The types and numbers of responses from different authorities regarding the inquiry of the prohibition of physical and mental punishment in schools from different districts are as follows:



2019-1: Complaints Received and Steps Taken

2019-2: Trainings Provided to Teachers

2019-3: Discussions and Meetings Held

2019-4: No Cases Filed

2019-5: No Responses

It is evident among the responses that came from the respective authorities against the applications of BLAST that 47 complaints were filed in 2017 and 9 complaints in 2018 from 8 divisions to the Ministry of Primary and Mass Education and steps were taken accordingly. As a preventive measure, training was provided in 18 government teachers training colleges in Rangpur, Pabna, Sylhet, Faridpur, Khulna, Cumilla, Feni, Rajshahi, Mymensingh (2), Dhaka (4), Gazipur, Barishal, Chittagong and Jessore where information regarding 2 institutions could not be found. Relevant chapters were also included in those trainings. Discussion and Meetings were held under Ministry of Primary and Mass Education, Dhaka and District Primary Education Office, Rajshahi under 2 applications. 4 of the authorities informed BLAST that they did not receive any complaints, these are the Chief Judicial Magistrates and Chief Metropolitan Magistrates of Faridpur and Chittagong. However, BLAST did not receive any responses from 5 applications in the Secondary and Higher Education Division – Ministry of Education; District Primary Education Office, Faridpur and Sylhet and 2 Government Teachers Training Colleges.

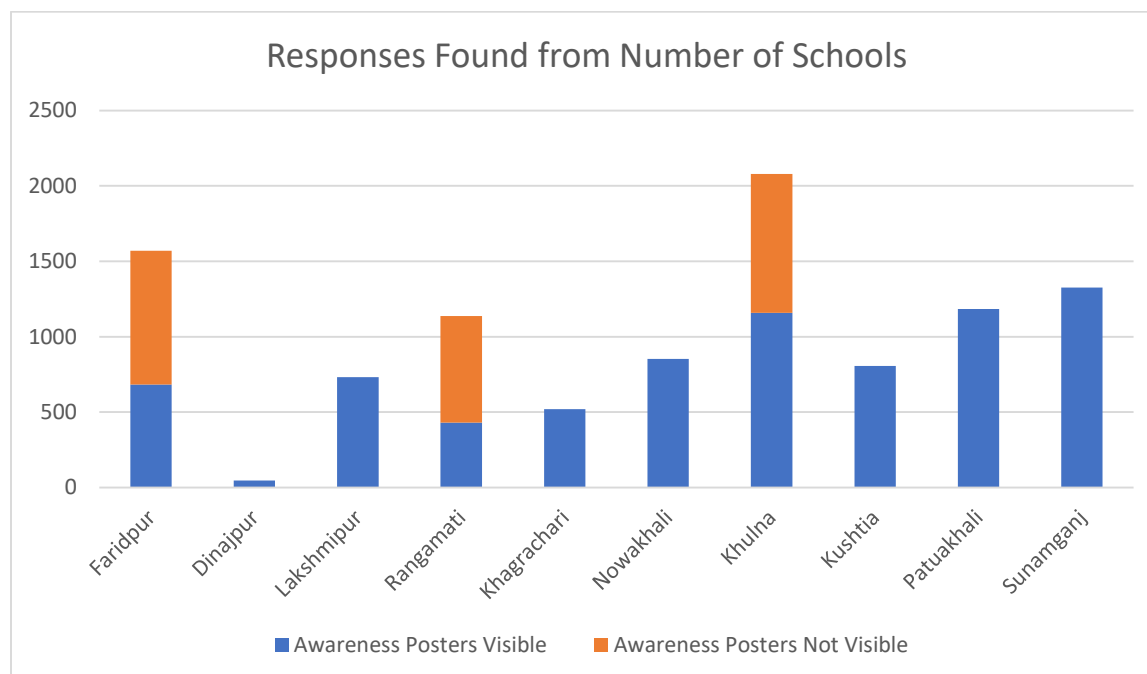
A noteworthy finding of BLAST in 2019 is the implementation of effective steps taken in regards to the prohibition of punishment of students in schools. The steps include:

1. Thana Education Officer and Principals provided monthly reports to the Upazila Nirbahi Officer (UNO) regarding the prohibition of physical punishment on students of primary schools. (Dhaka)
2. Every three months, the UNO provided a report to the Deputy Commissioner regarding this. (Dhaka)
3. This is discussed in the monthly meetings of the law enforcement committee. (Dhaka)
4. The Education Officers of Mohonpur, Tanor, Durgapur and Paba have informed that they have already taken steps on the Upazila level to arrange monthly meetings with teachers and parents to discuss this issue. (Rajshahi)
5. The Upazila Education Officer of Puthia has informed that no relevant information has been found in this regard. (Rajshahi)
6. The Upazila Education Officers of Bagha, Charghat, Boalia, Baghmara and Godagari have informed that in their regular field inspections, they look for complaints regarding physical punishment on students. They have submitted reports in this regard. (Rajshahi)

RTI on PHP Issues Highlights 2020

In 2020, BLAST submitted applications to the RTI Officer, Office of the Deputy Commissioner of 30 districts Faridpur, Mymensingh, Dinajpur, Feni, Lakshmipur, Rangamati, Khagrachari, Noakhali, Bandarban, Rajshahi, Naogaon, Pabna, Jessore, Khulna, Kushtia, Patuakhali, Barisal, Moulvibazar, Sunamganj, Sylhet, Rangpur, Brahmanbaria, Chattogram, Cumilla, Chandpur, Cox's Bazar, Bogra, Gazipur, Tangail and Dhaka. Inquiry was done to know the number of primary schools in the respective district that have posters or banners exhibited to stop physical and mental punishment on students studying in educational institutions, posters or banners consisting of various awareness slogans.

Responses from the respective districts on the availability of posters, banners and other awareness programs in schools were as follows:



Out of 10 districts, the responses from the number of schools per district have been shown in the figure.

Faridpur – 683 schools out of 888

Dinajpur – 47 school

Lakshmipur – 732 schools

Rangamati – 431 out of 707

Khagrachari – 519 schools

Nowakhali – 852 schools in 9 Upazilas

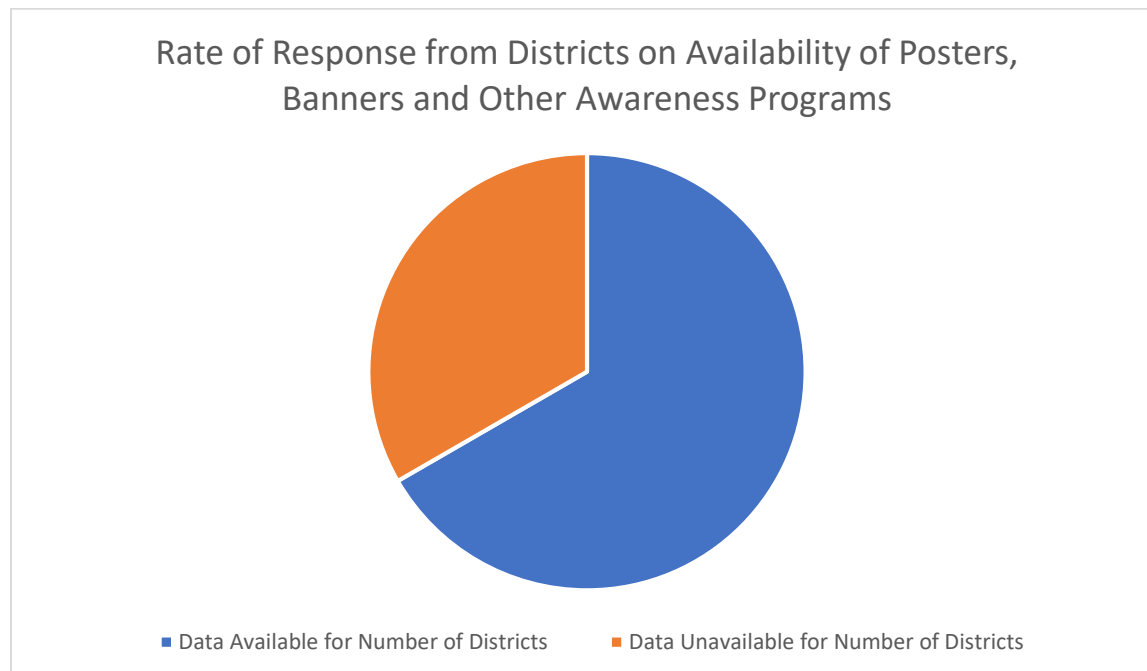
Khulna – 1159 schools in the district and 920 schools in different Upazilas

Kushtia – 805 schools in 06 Upazilas

Patuakhali – 1184 schools of 8 Upazilas

Sunamganj – 1325 schools of 11 Upazilas

However, no relevant information was found in the respective authority and BLAST was requested to forward the applications to other authorities in Sylhet, Bandarban, Feni, Mymensingh, Rajshahi, Naogaon, Pabna, Jessore, Barishal and Moulvibazar.



Out of 30 districts, BLAST received responses from 20 districts on Availability of Posters, Banners and Other Awareness Programs

Moreover, there was no response at all from the RTI Officers of Deputy Commissioner's Office of Rangpur, Brahmanbaria, Chattogram, Cumilla, Chandpur, Cox's Bazar, Bogra, Gazipur, Tangail and Dhaka.

BLAST submitted applications to the RTI Officer, Office of the Police Super of 30 districts Faridpur, Mymensingh, Dinajpur, Feni, Lakshmipur, Rangamati, Khagrachari, Nowakhali, Bandarban, Rajshahi, Naogaon, Pabna, Jessore, Khulna, Kushtia, Patuakhali, Barishal, Moulvibazar, Sunamganj, Sylhet, Rangpur, Brahmanbaria, Chattogram, Cumilla, Chandpur, Cox's Bazar, Bogra, Gazipur, Tangail and Dhaka. Inquiry was made on 2 points, whether 'Child Affairs Desks' have been established in the Thanas of those districts pursuant to section 13 of the Children Act, 2013 and whether any case has been filed in the Thanas of those districts in the last one year (from 1 July 2019 to 30 June 2020) regarding physical and mental punishment on children in educational institutions.

The responses regarding the establishment of 'Child Affairs Desks' or similar platform, the number of officers appointed and number of cases filed in the last one year are showed the following data:

District	Platform	Number of Officers	Number of Case filed
Cumilla	'Child Affairs Desks'	14	1
Lakshmipur	Not known	Not known	1
Khagrachari	'Child Affairs Desks'	9	1
Rajshahi	General complaint boxes	None	None
Tangail	"Women, Children, Elderly and Disabled Service Desks"	13	None
Sunamganj	'Child Affairs Desks'	No Information	None
Brahmanbaria	"Women, Children, Elderly and Disabled Service Desks"	22	None
Moulvibazar	'Child Affairs Desks'	8	2
Khulna	'Child Affairs Desks'	9	3
Barishal	'Child Affairs Desks'	10	None

However, there was no response from the authority of Chandpur, Cox's Bazar, Nowakhali, Feni, Bandarban, Naogaon, Pabna, Bogra, Jessore, Kushtia, Patuakhali, Mymensingh, Rangpur, Dinajpur, Gazipur, Faridpur, Dhaka, Chattogram, Rangamati and Sylhet.

CONCLUSION AND RECOMMENDATIONS

At the end of the RTI analysis where Bangladesh Legal Aid and Services Trust (BLAST) used the law to find out the state of compliance of the High Court guidelines and subsequent Education Ministry circular on ending corporal and mental punishment on students in educational institutions. As we see from the above discussion that the submitted RTI requests to different field offices of the ministry and received responses indicating that while in many instances the guideline/circular was being duly followed, many shortfalls remained. In order to achieve the larger goals of systemic change in on ending corporal and mental punishment on students in educational institutions through RTI, BLAST must be engaged in the process.

It appears that although Bangladesh has adopted the RTI Act since 2009, still there is concern for its proper and full implementation. In order to bring forth transparency, the government must proactively take the initiative to publish as much information regarding their curriculum and performance as is possible. However, this would require the organs of the government to maintain information in such details. Therefore, there are several implementation challenges that RTI faces in Bangladesh even though it has been in existence for almost 12 years now.

The researcher identified some recommendations for shifting the enabling environment against children in educational institutions who are being subject to PHP by using RTI applications:

1. Due to lack of technological and logistic support at government offices, the Designated Officers are unable to provide speedy service which may act as a discouragement for people applying for information. Therefore, government must ensure technological and logistic support at government offices to provide adequate information in response to RTI application as soon as possible;
2. There are many Government officials are yet to have full knowledge about their obligations under the RTI act to provide requested information and therefore, many of them failed to response to the RTI applications. To avoid such situation, the Government must ensure to disseminate and trained their officials about the proper knowledge of RTI and the use of RTI act.
3. Although there is clear direction in the RTI Act about publication of information regularly, the government institutions are not showing enough initiatives to make public their information. Therefore, the Government must take immediate steps to ensure publication of information regularly.