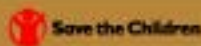


# ROLE OF THE BANGLADESH NATIONAL HUMAN RIGHTS COMMISSION IN ENDING CORPORAL PUNISHMENT IN EDUCATIONAL SETTINGS



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Legal Reform for Ending Corporal Punishment in all settings project.

Bangladesh Legal Aid and Services Trust (BLAST) is a national legal services and human rights organization, established in 1982. It works with around 400 staff and 2000+ pro bono lawyers, and operates district offices and legal aid clinics in 13 districts, directly from the frontlines of the justice system to the grass roots. It provides legal rights awareness sessions at community level, provides information and advice and referrals, and provides mediation and litigation. BLAST undertakes public interest litigation as part of its advocacy for law and policy reforms to ensure effective legal protection of rights. For more information, please log on to [www.blast.org.bd](http://www.blast.org.bd)

Save the Children is the world's leading independent organization for children. We are working to deliver programs to more than 120 countries around the world. In Bangladesh, Save the Children has been working to assist the children of the country since 1973. The program activities are Family and Child Care, Primary Care/Healthcare, Education, Policy, Rights and Governance, Health, Nutrition and HIV/AIDS and Humanitarian. Save the Children works with the support of its global members and trusted donors. Its country programs across 81 districts of Bangladesh are implemented through local partnerships. In collaboration with government, civil society organizations, networks and media institutions, Save the Children's new global strategy is Action for Children 2030 with the mission, which is to safeguard and support all our young children and helping them excel before, but before children are denied their most basic rights and unable to full their potential.

We will focus on inspiring three specific breakthroughs for children by 2030:

- Remove the 50% gap from preschool access before the 5th birthday
- Learn All children learn from a quality basic education
- Be protected: Violence against children is no longer tolerated

In order to inspire these breakthroughs, we will focus on reaching the most deprived and marginalized children. We will do whatever it takes to ensure we have no child behind. This will be the measure of our success.

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EDUCATIONAL  
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## Summary

This paper analyzes the role of the National Human Rights Commission in implementing the landmark judgment of the High Court Division of the Supreme Court of Bangladesh which prohibited corporal punishment in educational settings. It examines the Commission's complaints mechanism, its operations and outcomes to date in relation to allegations of corporal punishment of children, and makes recommendations on how to strengthen the process, as well as ending this practice in all settings.

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## ACKNOWLEDGMENTS

Children in Bangladesh need protection from corporal punishment in all settings. The landmark judgment of the High Court Division of the Supreme Court of Bangladesh in 2011 banning all forms of corporal punishment in educational settings identified clear measures to prevent such incidents and to protect those affected, recognizing this practice as a crime and as a human rights violation. In 2015, in partnership with Save the Children, BLAST implemented the Legal Reform for Ending Corporal Punishment in All Settings Project. This aimed to promote legal prohibitions on corporal punishment in all settings, create public awareness on its harmful impacts and take steps to implement the High Court judgment. It involved research on efforts to seek redress for corporal punishment, including complaints to the Bangladesh National Human Rights Commission, and advocacy to seek repeal of existing laws that still permit such punishment. It also enabled holding district consultations in Chittagong and Sylhet, as well as a national roundtable discussion, and brought together education officers, teachers, and school management committee members, along with lawyers, journalists and grassroots citizen's groups to identify specific measures to ensure full implementation of the judgment. At the national consultation, the Hon'ble Minister for Primary and Mass Education, Advocate Mustafizur Rahman MP, announced an initiative to convene a regular stakeholder consultation to monitor progress in this area, which it is hoped will provide an important framework for taking forward action to address corporal punishment.

We hope this report, which draws on the project research and consultations, will be useful for those committed to ending corporal punishment, including educationalists, policymakers, government officials, lawyers and child rights advocates.

We are very grateful to Justice Md. Imman Ali, author of the landmark judgment, for his kind review of this report. We were fortunate in having an excellent team working on this report. Thanks are due to Nawmi Naz Chowdhury, Barrister, for drafting this report, to Soma Roy Chowdhury for her guidance and editing and to Najrana Imaan for her comments; to Mahbuba Akhter, Deputy Director, Advocacy and Communications, Adv. Rejaul Karim Siddiqi, Senior Researcher, BLAST Head Office, Adv. Irfanuzzaman, Coordinator, BLAST Sylhet and Adv. Rezaul Karim, Coordinator BLAST Chittagong for convening all consultations; to Saraban Tahura Zaman, Researcher, Shimanto Shahriar Oni and Faria Ahmed, Interns, for research support, and finally to M Zamil, Deputy Director Programmes, BLAST for managing the entire project. We gratefully acknowledge the support of Laila Karim, Manager, Advocacy and Communication (Child Protection); Robiul Alam, Manager (Child Protection), and Firozul Islam Milon, Senior Manager (Child Protection) of Save the Children International for their support. Finally we express our gratitude to Rasheda C. Chowdhury, Executive Director, CAMPE, for her consistent encouragement and support.

**Sara Hossain**  
Honorary Executive Director, BLAST



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# ACRONYMS



## ROLE OF THE BANGLADESH NATIONAL HUMAN RIGHTS COMMISSION IN ENDING CORPORAL PUNISHMENT IN EDUCATIONAL SETTINGS

ASK	Ain O Shalish Kendra [Law and Mediation Centre]
BBS	Bangladesh Bureau of Statistics
BLAST	Bangladesh Legal Aid and Services Trust
BNHRC	Bangladesh National Human Rights Commission
BSAF	Bangladesh Shishu Adhikar Forum
CAMPE	Campaign for Popular Education
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC	United Nations Convention on the Rights of the Child
DPE	Directorate of Primary Education
ECCP	Early Childhood Care and Development
ECP	Legal Reform to End Corporal Punishment in All Settings Project
GoB	Government of Bangladesh
HC	High Court Division of the Supreme Court of Bangladesh
ICCPR	International Covenant on Civil and Political Rights, 1966
MoED	Ministry of Education
MOWCA	Ministry of Women and Children Affairs
RTI	Right to Information
SC	Supreme Court of Bangladesh
SCI	Save the Children International
UPR	Universal Periodic Review
UNICEF	United Nations International Children's Emergency Fund

# EXECUTIVE SUMMARY

In Bangladesh, corporal punishment is socially justified and culturally ingrained. Oblivious of the detrimental impact of corporal punishment on a child's overall development, wellbeing and quality upbringing, parents, employers, caregivers and teachers often resort to imposing corporal punishment on children. In the absence of a comprehensive legal cover, an overwhelming number of children continue to be disciplined in educational institutions, custodial centres, workplaces and within households through corporal punishment. Bangladesh is yet to outlaw the practice of corporal punishment through domestic legislation.

Responding to a spate of media reports alleging serious violations of children's rights through severe corporal punishment, BLAST, together with ASK, filed a public interest litigation against the Ministry of Education in 2010 seeking a ban on such punishments being imposed on children in educational institutions. The High Court in a milestone 2011 judgment declared imposition of corporal punishment on children unlawful and unconstitutional. The Ministry of Education immediately issued a circular prohibiting corporal punishment in all educational institutions including madrasas, and requiring schools to set up internal processes to prevent such incidents and to take action against those responsible. Four years since the pronouncement of this judgment, its key directives are yet to be fully implemented.

Subsequent to judgment, BLAST has routinely scanned allegations of corporal punishment in educational institutions reported in the media and referred these to the Bangladesh National Human Rights Commission (BNHRC).



**The High Court in a milestone 2011 judgment declared imposition of corporal punishment on children unlawful and unconstitutional.**

# EXECUTIVE SUMMARY



**This paper aims to assist the BNHRC in overcoming its gaps in complaints and redress mechanisms through research and advocacy**

This experience prompted an understanding of the need to strengthen the monitoring and response mechanism of this statutory body. The major challenges facing the BNHRC as identified by BLAST include delay in submission of investigation reports; delay in responses, in one case taking as long as one year to provide redress and absence of a dedicated focal point to regularly monitor allegations of corporal punishment in media and NGO reports, among others. The BNHRC is yet to fully exercise its powers to summon offenders in corporal punishment cases and recommend appropriate action including awarding of compensation where feasible. It does not display decisions relating to corporal punishment cases on its website and is yet to raise public awareness that it is a viable forum for redressing corporal punishment.

This paper aims to assist the BNHRC in overcoming its gaps in complaints and redress mechanisms through research and advocacy so that it becomes a viable forum to provide redress against corporal punishment in the long run. The paper has further identified and developed specific sets of practical recommendations for the BNHRC, the Ministry for Mass and Primary Education, the Ministry for Law, Justice and Parliamentary Affairs, the Ministry for Women and Children Affairs, citizen's groups and the media with a view to enabling them to undertake concerted efforts towards eliminating corporal punishment in Bangladesh through implementation of the milestone judgment in letter and spirit.

# INTRODUCTION

Corporal Punishment involves the use of physical force, or certain inappropriate forms of discipline on children by a person who has the care of the child. It amounts to cruel and degrading treatment and significantly hampers the wellbeing of the child. Children in Bangladesh remain subjected to corporal punishment in multiple settings – in the home, in educational institutions, in workplaces, in alternate care settings and even within penal institutions.

In 2011, corporal punishment in educational institutions was declared as unconstitutional in a landmark High Court judgment. This judgment is binding on all persons throughout Bangladesh. The Government issued a Circular and Guidelines in 2010 and 2011 respectively in terms of the High Court judgment, prohibiting corporal punishment in educational settings. Subsequently the Children Act 2013 has been enacted, and certain provisions of this law may be invoked in such cases. However, to date no separate statute expressly bans the practice or provides remedies for corporal punishment. Indeed a number of pre-constitutional laws still expressly mandate such punishment for specific criminal offences, as discussed below.

Within this context, several organizations have undertaken initiatives to inform children of their right to legal protection, and the public of the key issues involved. While the overall aim of the campaign against corporal punishment is to stop such practices in all settings, BLAST is currently focused on putting in efforts to stop

such practices in educational settings and to ensure compliance with the High Court's judgment. In the absence of adequate legal protection to protect children from corporal punishment in schools, BLAST has focused on advocating for the implementation of the High Court judgment and the Government Circular and Guideline, alongside urging the Government to enact legal reforms to prohibit corporal punishment in the home and in schools and in all other settings.

As part of this process, it scans reports from leading daily newspapers regarding allegations of corporal punishment in schools and madrasas, and refers these to the Ministry of Education and the Bangladesh National Human Rights Commission (BNHRC) for necessary action.

This paper examines the steps taken to date to implement the High Court's judgment, focusing on the measures taken by the BNHRC in response to complaints received. It first outlines the Commission's complaints mechanism, and how it works in relation to allegations of corporal punishment of children. It then summarizes several of the cases forwarded by BLAST, and dealt with by the Commission. The paper then analyses in turn the Commission's main achievements in addressing such cases, and then the challenges which remain. It concludes with a set of recommendations for the Government, school authorities, citizen's groups and the media.

See Article 112 of the Constitution of Bangladesh, 1972: "All authorities, executive and judicial, in the Republic shall act in aid of the Supreme Court." Available at: <http://bdlaws.minlaw.gov.bd/pdfpart.php?id=367>

UNICEF (2009), *Opinions of Children of Bangladesh on Corporal Punishment: Children's Opinion Poll 2008*, Dhaka:



# AIM AND METHODOLOGY

## Aims

This study aims to provide an overview of one of the processes for ensuring redress for allegations of corporal punishment in educational institutions, namely the complaints mechanism of the BNHRC. It seeks to identify the major achievements/ best practices so far, and identify challenges which remain. It also proposes recommendations for how to take forward the campaign on ending corporal punishment in educational and others settings, including on ways to strengthen the BNHRC's complaint handling capacities and enable more effective redress for victims in such cases.

## Methodology

This report is based upon a review of media reports, and BLAST case files on complaints sent to the BNHRC over two years (2014 to 2015).

To collect relevant information, we initially sent an application under the Right to Information Act, 2009 to the BNHRC asking for information about its complaint mechanism and data on the number of complaints received over five years (2010 to 2015), and on the status of complaints received by the BNHRC during 2014. We received the BNHRC's responses on 18 August 2015. We also met with Kazi Reazul Haque, full time member of the BNHRC, and Chairperson of the Child Rights Committee, on 21 October 2015 and incorporated the information and responses provided during this meeting. We then conducted a desk review of existing laws, and reports of national and international organizations on corporal punishment in educational institutions, as well as media reports. The media scan covered five newspapers, two in English (Daily Star and Dhaka Tribune) and three in Bangla (Prothom Alo, Bangladesh Protidin and Daily Samakal), and several online newspapers (BDNews.com, OnlineBanglaNewspaper.com) including some district level online media (e.g AmaderSylhet.com). Incidents reported in online district newspapers were verified by BLAST's district offices with staff members in each unit office contacting the school authorities to verify the allegation of corporal punishment. Lastly, we collected data from BLAST case files on complaints sent to the BNHRC from 2014 to 2015.

The study is limited in its scope as it focuses only on complaints submitted by BLAST to the BNHRC within a time period of two years. It does not address the much larger number of reports in the media, or documented by NGOs. Importantly, it does not address the many cases which never result in any claims for redress, where parents or guardians settle with the authorities.



**This report is based upon a review of media reports, and BLAST case files**



# SCOPE AND EXTENT OF CORPORAL PUNISHMENT

A 2009 UNICEF survey noted a high number of incidents of corporal punishment of children at home and in schools across Bangladesh. As part of the study, 4,000 households, including children aged 9-18 and heads of their households were interviewed and data was collected through focus group discussions and case studies. The research revealed that 91% of children in school experienced physical punishment and poor children were subjected to it more than rich children. 76% of students experienced punishment involving their palms being hit with a ruler or stick. Other forms of punishment included being forced to stand in class, being hit on different parts of the body with a ruler or stick, and slapping. 23% of students said they faced corporal punishment on a daily basis and 7% reported injuries and bleeding as a result. Corporal punishment was one of the top four reasons given by surveyed children for not attending school.

A smaller study in 2012 suggested that 77.1% of students stated that physical, psychological or financial punishments were inflicted on students in their schools. 48.4% of the parents surveyed said such punishments occurred in their children's schools and 34.9% of teachers said it occurred in the schools where they worked.

Attitudes towards corporal punishment have also been slow to shift. An earlier 2012-2013 study by the Bangladesh Bureau of Statistics and UNICEF



**91% of children in school experienced physical punishment and poor children were subjected to it more than rich children.**

UNICEF (2009), *Opinions of Children of Bangladesh on Corporal Punishment: Children's Opinion Poll 2008*, Dhaka: UNICEF & Ministry of Women and Children Affairs.

Bangladesh Legal Aid and Services Trust & Institute of Informatics and Development (2012), *Survey Report on Violence against Children in Education Institute Settings*, Institute of Informatics and Development. Available at: <http://www.enkcorporalpunishment.org/assets/pdfs/status-reports/Bangladesh.pdf> [Accessed 26 Dec. 2015].

# SCOPE AND EXTENT OF CORPORAL PUNISHMENT



**23% of students said they faced corporal punishment on a daily basis and 7% reported injuries and bleeding as a result.**

found that about 33.3% of respondents believed physical punishment was required to bring up, raise, or educate a child properly, while 35.1% of the respondents with no educational attainment and 41.7% of those residing in poorer households believed that physical punishment is a necessary method of disciplining children.

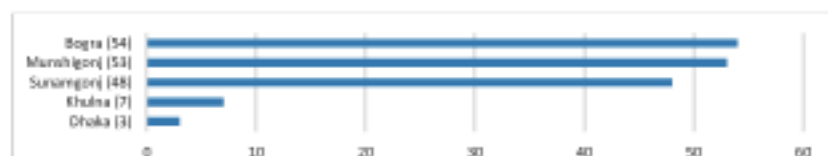
Most recently, the Bangladesh Shishu Adhikar Forum [Bangladesh Child Rights Forum] identified 345 separate media reports of such incidents over a two-year period from 2014-2015, showing a slight increase.

*Table 1: Media Reports of Corporal Punishment in Educational Institutions 2014-2015*

2013	2014	% increase/decrease	No. of districts covered
170	175	2.86 % (increase)	64

According to the same report, in 2014, the highest number of corporal punishment incidents in educational institutions was recorded from five districts, with Bogra, Munshiganj and Sunamganj accounting between them for over 150 incidents.

*Table 1: Media Reports of Corporal Punishment in Educational Institutions by District 2014*



Bangladesh Bureau of Statistics (BBS) & UNICEF Bangladesh (2014), Bangladesh Multiple Indicator Cluster Survey 2012-2013, Progotir Pathbey: Final Report, Dhaka, Bangladesh; Bangladesh Bureau of Statistics (BBS) & UNICEF Bangladesh. Available at: [http://www.unicef.org/bangladesh/MICS\\_Final\\_21062015\\_Low.pdf](http://www.unicef.org/bangladesh/MICS_Final_21062015_Low.pdf) [Accessed 26 Dec. 2015].

Global Initiative to End All Corporal Punishment of Children. Country Report for Bangladesh. (2015). [online] Available at: <http://www.endcorporalpunishment.org> [Accessed 11 Dec. 2015].

Bangladesh Shishu Adhikar Forum (BSAF), (2014). State of Child Rights in Bangladesh 2014. [online] Available at: <http://bsafchild.net/pdf/State-of-Child-Rights-in%20Bangladesh-11112014.pdf> [Accessed 26 Dec. 2015].

# HIGH COURT PROHIBITION ON CORPORAL PUNISHMENT

In 2010, over five months between March and July, the national press reported fourteen incidents of corporal punishment in schools. These included allegations of caning, beating and chaining of students by teachers and in one case the suicide of a boy aged ten following a reported beating in school. In response, BLAST and Ain o Salish Kendra (ASK) filed a writ petition on 18 July 2010 before the High Court Division of the Supreme Court of Bangladesh. The High Court asked the Ministry of Home Affairs and the Ministry of Education to explain why no action was being taken to investigate and prosecute those responsible. On 13 January 2011, a Division Bench of the High Court (comprising of Justice Md Imman Ali and Justice Md Sheikh Hasan Arif) gave a judgment holding that corporal punishment constitutes a clear violation of children's fundamental rights to life, liberty and freedom from cruel, inhuman and degrading treatment. The Court held that the Government had failed to take appropriate and adequate action to investigate or take either preventive or disciplinary action in the case involving the suicide of a 10-year-old boy, and other cases involving caning, beating, chaining by the legs, forcible cutting of hair and confinement of children in schools and madrasas. The Court referred to the Government's obligations to prohibit, prevent and prosecute such acts, as specified under national and international law, including Articles 27, 31, 32 and 35 of the Constitution, the Convention on the Rights of the Child Rights 1989 and the International Covenant on Civil and Political Rights 1966. The High Court order directed that steps be taken to treat corporal punishment as a form of misconduct for which teachers would face disciplinary action. It proposed that relevant terms be included in the service contracts of teachers of private educational institutions, and observed that the disciplinary laws



**On 13 January 2011, a Division Bench of the High Court (comprising of Justice Md Imman Ali and Justice Md Sheikh Hasan Arif) gave a judgment holding that corporal punishment constitutes a clear violation of children's fundamental rights to life**

# HIGH COURT PROHIBITION ON CORPORAL PUNISHMENT



**Corporal punishment of children is absolutely prohibited in all educational institutions**

**Corporal punishment shall be considered to constitute misconduct**

for teachers in government run schools be (Government Servants (Discipline and Appeal) Rules, 1985) be amended accordingly. No developments appear to have taken place in this regard. However, while the case was still pending, the Ministry of Education issued Government Circular regarding Corporal Punishment in Educational Institutions No.37.031.004.02.00.134.2010 on 9 August 2010 banning corporal punishment in schools and madrasas and setting out the duties of those concerned:

- Corporal punishment of children is absolutely prohibited in all educational institutions
- Corporal punishment shall be considered to constitute misconduct
- District Education Officers and Upazilla Secondary Education Officers shall take effective measures against persons imposing corporal punishment under the Bangladesh Penal Code 1860, the Children Act, 1974 and, where appropriate through initiating departmental action
- Heads of educational institutions shall take necessary steps in their own institutions to end the imposition of corporal punishment
- School management committees shall take steps in their own institutions to identify the teachers who impose corporal punishment and shall take remedial measures in accordance with the school rules;
- Inspectors of concerned offices, departments and Boards of Education under the Ministry of Education shall monitor the issue of corporal punishment and shall mention such matters in their inspection reports while inspecting

Khan, Arafat H. (2011). Ban on Corporal Punishment in Upholding Rule of Law. Forum (A monthly publication of the Daily Star), [online] (Issue 6, Volume - 5). Available at: <http://archive.thedailystar.net/forum/2011/june/ban.htm> [Accessed 10 Dec. 2015].

BLAST & ASK vs Bangladesh & Others [2010] Writ Petition No. 5684 of 2010 [High Court Division of the Supreme Court of Bangladesh] reported at 63 DLR (2011) 643. See full judgment at: [http://blast.org.bd/content/judgement/wp\\_5684of2010.pdf](http://blast.org.bd/content/judgement/wp_5684of2010.pdf)

Government Circular Regarding Corporal Punishment in Educational Institutions No.37.031.004.02.00.134.2010 of 09/08/2010. Available at: <http://www.blast.org.bd/content/publications/cp-booklet-english.pdf> [Accessed 5 Jan. 2016]

# HIGH COURT PROHIBITION ON CORPORAL PUNISHMENT

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- Inspectors of concerned offices, departments and Boards of Education under the Ministry of Education shall monitor the issue of corporal punishment and shall mention such matters in their inspection reports while inspecting educational institutions.

On 21 April 2011, the Ministry of Education issued its final Guidelines on Prohibiting Physical and Psychological Punishment in All Educational Institutions. These Guidelines represented a significant development in the campaign against the practice of corporal punishment as they:

- Defined corporal punishment
- Identified the functions of members of management committees, head teachers, teachers and employees of educational institutions.
- Called for the prosecution of any education/academic professional who engages in corporal or mental punishment of students in violation of the law.



**School management committees shall take steps in their own institutions to identify the teachers who impose corporal punishment**

# HIGH COURT PROHIBITION ON CORPORAL PUNISHMENT



**Heads of educational institutions shall take necessary steps in their own institutions to end the imposition of corporal punishment**

The definition and list of acts that constitute corporal punishment as stated in the Guidelines maybe summarized as follows:

*Table 1: Definition of Corporal Punishment in Government Guideline*

Nature of Corporal Punishment identified by MoED Guideline	Definition in MoED Guideline
Physical punishment	<p>Any kind of physical assault, as a form of discipline, of any student including the following acts:</p> <ul style="list-style-type: none"><li>• To hit or cane any student by using hand/foot or any other thing;</li><li>• To throw any duster/chalk or any other material on any student;</li><li>• To punch or pinch;</li><li>• To bite any part of the body;</li><li>• To pull by the hair or cut the hair;</li><li>• To insert a pencil between two fingers and bend under pressure;</li><li>• To push or shove by the shoulder;</li><li>• To pull by the ears or make someone sit up or down;</li><li>• To make anyone stand or kneel by putting their head under a table/chair or anything else;</li><li>• To make anyone stand or lie down in or stand facing the sun;</li><li>• To make any student do any act which is prohibited by the Labour Act.</li></ul>
Psychological Punishment	<ul style="list-style-type: none"><li>• Any comment to any student in the classroom such as any obscene comment regarding his/her parents, family, caste, race, religion etc.</li><li>• Making any indecent gesture or any behaviour that may create an untoward reaction in the mind of the student.</li></ul>

# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS

## Duties of Education Officials / Teachers

The Guideline identified the following duties of members of management committees, head teachers, teachers and employees of educational institutions:

- The Head of an educational institution shall take necessary steps to implement the Circular and Guideline enacted by the Ministry;
- The Head of the educational institution shall inform all concerned about the negative effects of corporal punishment;
- The Governing/Management Committee shall adopt a resolution to take necessary steps/to build awareness in relation to ending corporal and mental punishment;
- The Management Committee and the education administration shall regularly monitor concerned field officers, and shall help to implement the guidelines;
- Students shall not be required to do any physical work beyond the curriculum;
- Students shall not be encouraged to do any risky/dangerous work;
- Guardians shall be made aware about the nature of corporal and mental punishment, so that unjustified allegations are not made;
- The concerned authorities, departments and directorates shall provide training to teachers, officers and employees regarding ending corporal and mental punishment; and
- Teaching methods and the assessment process shall be amended to make the learning process more attractive and enjoyable.



**The Head of an educational institution shall take necessary steps to implement the Circular and Guideline enacted by the Ministry**

GOB, National Children Policy, 2011, MOWCA, Dhaka 2011. This includes chapters on safe child birth (clause 6.1), child poverty reduction (clause 6.2), child health (clause 6.3), pre-primary education (clause 6.4), children's education (clause 6.5), recreation and sport (clause 6.6), child protection (clause 6.7), disadvantaged children (clause 6.8), autistic children (clause 6.9), birth registration (clause 6.10), backward and minority children (clause



# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS



**Students shall not be required to do any physical work beyond the curriculum**

## International Law

Bangladesh ratified the United Nations Convention on the Rights of the Child (CRC) 1989 on 3 August 1990. The Convention strongly states that all forms of corporal punishment in all settings must be prohibited. Through ratification of this international convention, Bangladesh is legally bound to take all legislative measures to ensure the implementation of the Articles of the CRC.

*Table 1: CRC Articles relevant to Corporal Punishment*

<b>ARTICLE 3</b>	<p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.</p>
<b>ARTICLE 12</b>	<p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p>
<b>ARTICLE 13</b>	<p>The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.</p>
<b>ARTICLE 16</b>	<p>1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.</p> <p>2. The child has the right to the protection of the law against such interference or attacks.</p>
<b>ARTICLE 19</b>	<p>1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p> <p>2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for</p>

6.11), protection of children at times of distress or natural disasters (clause 6.12), children's participation and opinion (clause 6.13), adolescent development (clause 7), development of the girl child (clause 8), elimination of child labour (clause 9) and implementation measures (clause 10). Available at: [http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20\\_d211\\_48cb\\_8e6b\\_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf](http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/7c672d20_d211_48cb_8e6b_702f21c799c5/National-Child-Policy-2011-English-04.12.2012.pdf) [Accessed on 11 Dec. 2015]

# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS

Bangladesh is also party to the international Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984. This Convention specifically identifies corporal punishment to be a practice that is degrading and physically harmful and it denies children of protection under the law from cruel and unusual punishment.

The International Covenant on Civil and Political Rights (ICCPR) 1966 also includes provisions that prohibits any form of physical punishment or abuse of children

Table 1: ICCPR Articles relevant to Corporal Punishment

ARTICLE 7	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
ARTICLE 10	(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person
ARTICLE 24	(1) Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State
ARTICLE 26	All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>



**The International Covenant on Civil and Political Rights (ICCPR) 1966 also includes provisions that prohibits any form of physical punishment or abuse of children**

# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS



**In Bangladesh, international treaties such as the CRC do not immediately become effective and cannot be directly applied by any national Court.**

## National Law

Article 32 of the Constitution of Bangladesh states that no person shall be deprived of life or personal liberty. Most importantly, Article 35 (5) of the Constitution states that no person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. Article 39 also protects the right to freedom of expression of every citizen.

National laws which provide legal protection to children against various forms of physical violence include the recent Children Act 2013.

Table 1: Section 70 of the Children Act 2013

Nature of physical violence against a child	Punishment	Law
Penalty for cruelty to child. If any person having the custody, charge or care of any child assaults, abuses, neglects, forsakes, abandons unprotected, uses for personal service, or exposes in an obscene way such child and such assault, abuse, negligence, forsaking, abandonment, or the use in personal service causes unnecessary suffering or such injury to his health that it leads to loss of the child's eyesight or hearing or injury to any part of the body or sense organs and any mental imbalance, he shall be deemed to have committed an offence under this Act, and shall, for such offence, be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to Taka one lakh or with both. <sup>1</sup>	Maximum 5 years jail Maximum fine of Tk 1 lakh, or Both	Section 70 Children Act 2013

In Bangladesh, international treaties such as the CRC do not immediately become effective and cannot be directly applied by any national Court. It is only when the provisions of an international treaty are incorporated into national legislation that direct obligations are created upon the state, and rights for persons within the country.

The Children Act now refers to the CRC in its preamble, and is understood to have incorporated the terms of that treaty. Where there is some discrepancy between the Children Act and the CRC, it is possible for the Supreme Court to interpret the Act or other laws

Constitution of the People's Republic of Bangladesh, 1972. Available at: [bdlaws.minlaw.gov.bd/pdf\\_part.php?id=367](http://bdlaws.minlaw.gov.bd/pdf_part.php?id=367) [Accessed 10 Dec. 2015]

Section 70 of the Children Act 2013 states the following (unofficial translation): GKvB eAwix hw' Zvni GndvRGZ, 'vwqGZ's ev cwIPhEvq ^vkv GKvB wk=GK AwNvZ, Drcxob, AeGnjv, eRvEb, AtwPZ AeOcvq cwIzAwM eAwixMZ cwIPhEvI KvGR eAemv ev AkvjbvGv cI'kuEb KGI %oes %eBl... cIvGe AvNvZ, Drcxob, AeGnjv, eRvEb, cwIzAwM eAwixMZ cwIPhEv ev cI'kEGbi dGj Dlx wk+l AGnZek 'yGfEvM mBwOj nq ev O'lvGGOAi %eBl...c bwZ nq, hvvGZ mzwkOj wk+l 'hwOjkwfx ev kIeY'kwfx bOj nq, kIeGj GKvB AA ev Bwz 'Gqj PwZ nq ev GKvB gvbwmK weKhwZ NGU, Zvrv nBGj wZwB %eBwvGbi Aaxb AcIva KwIqvGQb ewjvq MYA nBGv %oes Dlx AcIvGai RbA wZwB AbwvK 5 [cvuP] emI KkvTA^ev AbwvK1 [%eK] jP UvKv A^vE' A^ev Dfq'Gj 'wiz nBGebj

# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS

Section 70 of the Children Act 2013 may be applicable to incidents of corporal punishment in all settings, where there is a carer or guardian or other individual looking after/supervising the child. However, it does not appear to have been invoked in relation to any reported cases of corporal punishment, including those in schools. The possible reasons may be as follows:

- There is no specific mention of 'corporal punishment' or 'punishment' of a child
- The word 'unnecessary' before 'suffering' raises the question of whether infliction of suffering is permitted if deemed 'necessary'
- It only applies to extreme cases where the child's sight/hearing is damaged or there is an injury to any part/organ
- It does not address psychological suffering caused by corporal punishment (unless this is covered by the phrase 'mental damage' of a child).

Interestingly, an older, pre-constitutional law, Section 39 (2) of the Intermediate and Secondary Education Ordinance 1961 requires teachers to follow certain prescribed standards in taking any disciplinary action against students for indiscipline and misconduct. The regulations adopted under the Ordinance specify that teachers must take into consideration three issues when imposing punishment for a particular misconduct or indiscipline:

- The punishment must never be in any way cruel
- A punishment that occupies a pupil in the open air can be more beneficial than a punishment which confines the pupil in a classroom
- When possible, the punishment should take the form of a useful occupation.

The Ordinance does not apply to younger children so these regulations are limited to older children in secondary schools, intermediate colleges, and intermediate sections of degree colleges.

Citizen's groups made recommendations to include provisions addressing corporal punishment in the draft Education Bill which was made available for public consultation most recently in 2015.

Recent state reports to the Committee on the Rights of the Child in 2015 have noted that the following legislative measures are in process:

- Issuance of the 'Ban on Corporal Punishment Policy and Guideline 2015'
- Enactment of Children Rules 2015



**The Ordinance does not apply to younger children so these regulations are limited to older children in secondary schools, intermediate colleges, and intermediate sections of degree colleges.**

# STATE'S DUTY TO ADDRESS CORPORAL PUNISHMENT IN EDUCATIONAL INSTITUTIONS



**The Committee appreciated the establishment of the Child Rights Committee within the National Human Rights Commission to receive complaints of violations of children's rights.**

- A law to ban corporal punishment of children in all educational institutions and workplaces, alongside a comprehensive law to ban all forms of violence against children, including corporal punishment. The Committee on the Rights of the Child made a number of concluding observations which included the following:

- To the BNHRC: The Committee appreciated the establishment of the Child Rights Committee within the National Human Rights Commission to receive complaints of violations of children's rights. However, it cited its concern related to the lack of resources allocated to this body to monitor and investigate such violations. It also reiterated its previous concern about the little/no progress made towards the establishment of a children's ombudsperson (see CRC/C/BGD/CO/4, para. 18), despite the provisions of the National Children Policy calling for the enactment of the law to appoint a children's ombudsperson.

- To the State regarding corporal punishment: The Committee expressed its concerns about the high number of cases of violence reported in families, schools and institutions, alternative care settings, day care and penal institutions and as a sentence for crime. It stated "In the light of its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to promote positive, non-violent and participatory forms of child-rearing and discipline, conduct awareness-raising programmes on this prohibition and create mechanisms for its fulfilment. The Committee also recommends strengthening the training of officials responsible for law enforcement on children's rights."

- Other recommendations to the State: Recommendations from the Committee also stated the following: "The Committee calls upon the State party to systematically involve communities and civil society, including non-governmental and children's organizations, in planning, implementing, monitoring and evaluating all State-supported policies, plans and programmes relating to children's rights" and; (ii) "Ensure that children and young people are actively consulted and involved in the preparation and implementation of laws, policies and programmes affecting them, and pay particular attention to the active

<sup>2</sup>Corporal punishment of children in Bangladesh. (2015). [online] Global Initiative to End All Corporal Punishment of Children. Available at: <http://www.endcorporalpunishment.org/> [Accessed 11 Dec. 2015].

<sup>3</sup>United Nations: Office of the High Commissioner. (2015). Concluding observations on the fifth periodic report of Bangladesh. [online] Committee on the Rights of the Child. Available at: <http://ohchr.net.au/docs/150515/Download.aspx?file=/hr/body/external/Download.aspx?symbol=hr-CRC/C/BGD/CO/5&L=eng-En> [Accessed 27 Dec. 2015].

<sup>4</sup>United Nations: Office of the High Commissioner. (2015). Concluding observations on the fifth periodic report of Bangladesh. [online] Committee on the Rights of the Child. Available at: <http://ohchr.net.au/docs/150515/Download.aspx?file=/hr/body/external/Download.aspx?symbol=hr-CRC/C/BGD/CO/5&L=eng-En> [Accessed 27 Dec. 2015].

# ROLE AND FUNCTIONS OF THE BNHRC

The BNHRC was constituted by the National Human Rights Commission Act 2009, and started its journey from 23 June 2010. It was established to act as a national advocacy institution for the protection and promotion of human rights. It is entrusted with the duty to preserve human rights in a broader sense, including the dignity, worth and freedom of every human being, as enshrined in the Constitution and different international human rights instruments to which Bangladesh is a party.

The Commission may mediate any complaint and recommend appropriate action including awarding of interim financial relief or compensation. It is also empowered to review existing laws and recommend amendments for better and more effective protection and promotion of human rights. Its functions include: investigation and inquiry into alleged human rights violations, making recommendations, offering legal aid when possible, engaging in human rights advocacy and conducting research and training on human rights laws, norms and practices.

The Commission's commitment to uphold child rights from the outset is clear from its 2010 Annual Report where protection and promotion of child rights was included as a priority in the Commission's draft five-year strategy plan.

As part of its efforts to promote and protect child rights in Bangladesh, the BNHRC has formed a Child Rights Committee including prominent citizens and government officials, and headed by one of its full time members. It has identified child rights as a key priority in the BNHRC's five-year strategic plan. It has also played an active role in the adoption of the Children Act 2013 and has coordinated and taken steps to submit independent reports on child rights both to committees of international treaty bodies and the UN Human Rights Council's Universal Periodic Review. It has convened meetings with stakeholders with a view to finding better ways to deal with the issue of corporal punishment in schools.

Since 2011, the BNHRC has put in place a number of tools to aid its system of inquiry and to establish a comprehensive complaints management system. The Standard Operating Procedures (SOP) Manual for complaints handling details the receipt, processing and investigation of complaints of human rights violations and also sets out the procedures for BNHRC-led mediation. It includes a step-by-step guide on how to receive and record a complaint, investigate (suo moto and otherwise), take appropriate actions and make recommendations (for mediation or other action) to resolve issues.



**Since 2011, the BNHRC has put in place a number of tools to aid its system of inquiry and to establish a comprehensive complaints management system.**

# ROLE AND FUNCTIONS OF THE BNHRC

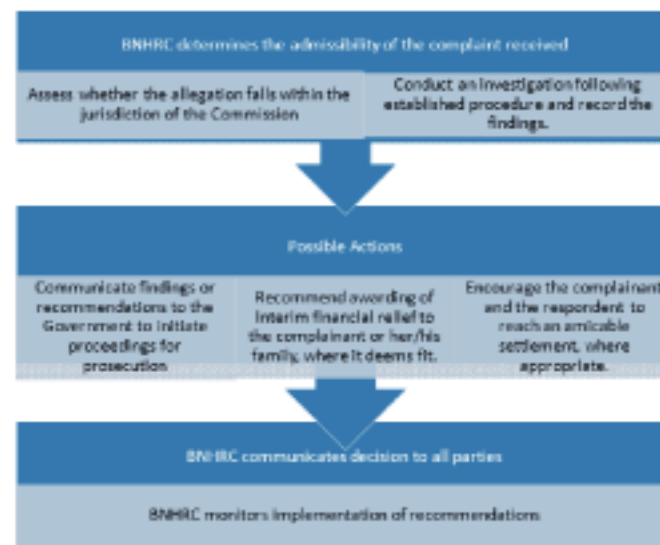


**The Commission received its first complaint related to corporal punishment from BLAST on 24 October 2010**

The BNHRC generally receives complaints by post, fax and by phone as well as in person. Its online case management system enables it to monitor and analyze complaints according to various criteria (category of violation, details of the complainant, demographic and geographical information, among others). This system is linked to the BNHRC's website, and allows citizens from home and abroad to register their complaints online. The BNHRC has also published and disseminated leaflets in Bangla and English to inform the general public about its complaint handling mechanism.

The Commission received its first complaint related to corporal punishment from BLAST on 24 October 2010. Since 2011, it started providing annual statistics on the total number of complaints received on corporal punishment.

Section 17 of the NHRC Act 2009 lays down the "investigation into complaint" process of the Commission. Briefly, the Commission's current practice is outlined below:



<sup>1</sup> See Annual Report of the Bangladesh National Human Rights Commission 2010. Available at: <https://drive.google.com/file/d/1000Fm33g1Wjz26k4d1bV1cnBw/view> [Accessed at 11 Dec. 2015]

<sup>2</sup> See details at: <http://www.bnhr.org.bd> [Accessed at 11 Dec. 2015].

<sup>3</sup> UPR Report: Situation of Child Rights in Bangladesh. (2012). [online] Ain O Shalish Kendra (ASK). Available at: <http://www.ashk.org/web/wp-content/uploads/2013/01/ACHR%20Situation%20Investigation%20Periodic%20Review%202013.pdf> [Accessed 12 Dec. 2015].

<sup>4</sup> Annual Report. (2011). [online] National Human Rights Commission. Available at: <https://drive.google.com/file/d/1000Fm33g1Wjz26k4d1bV1cnBw/view> [Accessed 12 Dec. 2015].

# BNHRC's COMPLAINTS MECHANISM AND CORPORAL PUNISHMENT

As discussed above, before the High Court ruling of 2011, the practice of corporal punishment was not widely perceived as a violation of human rights. Since the ruling and the subsequent prohibition of corporal punishment in educational settings by government orders, there have been more frequent reports of such incidents in the media. BLAST has regularly scanned national newspapers for such reports, logged the news and contacted the concerned educational institution to identify whether any steps have been taken against the person responsible. In case of no action taken, BLAST then referred the complaint to the BNHRC seeking action, and also informed the Ministry of Education. The BNHRC in such cases routinely sought an investigation report from the concerned authorities, and copied the reports received to among others BLAST for information.

According to the responses received from the Commission following a request made under the Right to Information Act 2009 received on 18 August, 2015, BLAST referred around 26 complaints to the Commission about corporal punishment in various educational settings. Until the time of reporting, BLAST appears to be the only organization that has referred corporal punishment related complaints to the Commission.

*Table 1: Complaints referred by BLAST to BNHRC 2010-2015 up to 30 July 2015*

Year	No. of complaints received by BNHRC from BLAST
2010	01
2011	04
2012	10
2013	01
2014	07
2015	02



**BLAST has regularly scanned national newspapers for such reports, logged the news and contacted the concerned educational institution to identify whether any steps have been taken against the person responsible**



# ANALYSIS OF BNHRC'S HANDLING OF COMPLAINTS ON CORPORAL PUNISHMENT



During 2014 and 2015, BLAST referred eleven allegations of corporal punishment (based on media reports and individual complaints received) to the BNHRC for action

In this section, we seek to identify the key achievements/ best practices to date, and the gaps in the BNHRC's current complaint handling mechanism, by analysing the complaints sent by BLAST to the BNHRC during 2014 -2015.

During 2014 and 2015, BLAST referred eleven allegations of corporal punishment (based on media reports and individual complaints received) to the BNHRC for action. Complaints of beating, caning and other forms of physical punishment of children were reported from all over Bangladesh including Chandpur, Dhaka, Faridpur, Natore, Pirojpur, Sunamganj and Tangail. Out of the 11 cases, the BNHRC took direct action in 3 cases, and authorised investigations in 2 others which are pending, and took no action in another six cases (in four of these the concerned school authorities had reported that they had taken steps against those responsible). Details of complaints sent to the BNHRC in 2014 and 2015 are summarized below:

Table 1: Details of complaints referred by BLAST to BNHRC in 2014-2015

Complaint No. and place of occurrence	Allegation	Source of news	Action by BNHRC against teacher/authority (Yes/Ongoing/No action taken)
237/14  SUNAMGANJ  Ibrahimpur Government Primary School	Class V teacher allegedly instructed 48 pupils to cut their hands and feet with a blade for failing to bring their maths homework. The students were injured.	The Daily Prothom Alo	Yes. A court case was filed against the teacher and is ongoing. She was suspended from the school in the meantime.
268/14  KHULNA  Ghadnagar Government Primary School	The Head Teacher allegedly forced 20-25 dalit students to do personal chores and clean toilets of all school classrooms, and verbally humiliated the students and their families.	Dakshinanchol Pratidin, Dainik Probaso, The Daily Shomajer Kagoj, Dainik Anirbon, Dainik Shottopath	Yes. Allegations against teacher found to be true and a case was filed against the teacher on 07.09.2014 and is ongoing. Her salary was suspended for one year under Sub-Rule 4 (2) (b) of the Govt Servant Employee (Discipline & Appeal) Rules 1985 (RTI response).
261/14  DHAKA  Bangladesh International Tutorial (BIT)	Classmates allegedly bullied student. School Principal further humiliated the student and his family when they sought redress.	The Daily Kaler Kartho	Yes. The Principal was asked to appear in person and to offer an unconditional apology to the parents and accordingly appeared.

# BNHRC's COMPLAINTS MECHANISM AND CORPORAL PUNISHMENT

308/14 <b>BARGUNA</b> Keratul Quran Cadet Scheme Madrasa,	Madrasa Teacher allegedly caned a Madrasa student for 'unruly behaviour'. The student was injured.	The Daily Prothom Alo	No action taken. Investigation report to BNHRC found the allegations of caning by the teacher to be true. Since steps were already taken by the Madrasa against the teacher, BNHRC took no further action. Teacher paid 5,000 taka to the affected student to cover medical expenses. Madrasa temporarily suspended teacher on 10.11.2014.
364/14 <b>TANGAIL</b> Abdur Rashid High School	Head Master allegedly flogged 20 female students using a bark for scoring lower grades in their science exams.	The Daily Ittefaq	No action taken. Investigation report submitted to the BNHRC found that no incident of corporal punishment took place. The report further stated that the Headmaster of the School protested against the publishing of such news and allegations.
371/14 <b>NATORE</b> Pangashia High School	Head Master and 4-5 Assistant Teachers allegedly beat and injured Class X students for requesting a separate classroom in the school premises for receiving tuition from a private tutor.	Complaint referred to BLAST	No action taken. Teacher apologized to the students and their guardians and promised not to commit such actions in future.
383/14 <b>FARIDPUR</b> Faridpur Govt. Girls School	Bangla teacher allegedly beat 48 school students of Class VIII with a steel ruler and forced them to kneel down as they could not answer questions.	The Daily Kaler Kontho	No action taken. Sordar Sorafot Ali, District Magistrate, Faridpur sent an Investigation Report which stated that corporal punishment was justified in order to uphold discipline in the school and



**BNHRC's  
COMPLAINTS  
MECHANISM AND  
CORPORAL  
PUNISHMENT**

# ANALYSIS OF BNHRC'S HANDLING OF COMPLAINTS ON CORPORAL PUNISHMENT



## ANALYSIS OF BNHRC'S HANDLING OF COMPLAINTS ON CORPORAL PUNISHMENT

242/15 PIRJOPIUR K M Latif High School	Class Teacher allegedly beat girl student in Class VII for wearing <i>kajal</i> (eye-liner) to school. The student fainted as a result of the beating.	The Daily Bhorer Kagej	Yes. School authorities cancelled teachers's increment for one month in May 2015 and gave her a verbal warning. Student and her guardians withdrew their complaint against the teacher as reported by the District Administrator. (BNHRC response received: 30.09.2015)
95/15 CHANDPUR Popular High School	15 year old Class X boy student committed suicide allegedly after physical punishment by Headmaster.	Dhaka Tribune	No action taken by BNHRC. Complaint pending with the Education Ministry to take further steps. BNHRC response received: 16.02.2015)
386/15 BAGERHAT Uttar Kumaria Primary School, Bagerhat	Maths teacher allegedly camed a boy student for failing to solve a math problem.	The Daily Ittefaq	Awaiting Investigation report (due 30.12.2015)
370/15 DHAKA -MIRPUR Sunmoon School,	One teacher allegedly beat students and another made them stand outside the classroom holding their ears.	Bangla Tribune	Awaiting Investigation report (due 24.12.2015).

# BNHRC's COMPLAINTS MECHANISM AND CORPORAL PUNISHMENT

The table below provides an overview of time taken for NHRC to deal with complaints. The analysis is based on the complaints sent to the Commission during 2014:

*Table 1: Time required for BNHRC to dispose of complaints*

Complaint No. & Place of Occurrence	Date complaint received by BNHRC	Date of receiving Investigation Report	Date of BNHRC action	Timeline for disposal
237/14 SUNAMGANJ Ibrahimpur Government Primary School	News reported: 13.06.2014 Complaint sent: 15.06.2014	02.07.2014	07.07.2014	23 days
260/14 KHULNA Ghoshnagar Government Primary School	News reported: 23.06.2014 Complaint sent: 24.06.2014	19.05.2015	25.06.2015	1 year
308/14 BARGUNA Keratul Quran Cadet Scheme Madrasa	News reported: 10.07.2014 Complaint sent: 10.07.2014	20.11.2014	31.12.2014	6 months
364/14 YANGAIL Abdur Rashid High School	News reported: 18.08.2014 Complaint sent: 19.08.2014	15.12.2014	15.12.2014	5 months
383/14 FARIDPUR Faridpur Govt. Girls School	News reported: 26.08.2014 Complaint sent: 16.09.2014	31.01.2015	01.07.2015	11 months



**BNHRC's  
COMPLAINTS  
MECHANISM AND  
CORPORAL  
PUNISHMENT**

# BNHRC's COMPLAINTS MECHANISM AND CORPORAL PUNISHMENT



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# ACHIEVEMENTS GOOD PRACTICES

In respect of the eleven cases referred to it during 2014-2015, the BNHRC has taken prompt action in three, and is awaiting investigation reports in two. It has also been engaged in public information campaigns and in ad hoc dialogues with stakeholders on how to address the issue. Its achievements/good practices in terms of addressing corporal punishment are set out below:

- **Securing Redress through assurances of non-repetition and apologies**

In the 2014 Natore case, the teachers responsible apologized and promised not to repeat such behaviour in the future. In the 2015 Dhaka BIT case, the principal of a reputed private English Medium school in Gulshan appeared in person and offered an unconditional apology to the parents.

- **Securing a Prompt Investigation**

In the 2014 Sunamganj Ibrahimpur Government Primary School case, following BNHRC action, the investigation report was submitted in less than 15 days from lodging of the BLAST complaint, and the NHRC responded within another 30 days.

- **Seeking Action from the Authorities**

In the 2015 Chandpur Popular High School case, where the victim of corporal punishment reportedly committed suicide, the Commission again demonstrated prompt action and within 7 days of receiving the complaint urged the Ministry of Education to take appropriate legal steps.

- **Informing the Public of Rights and Remedies**

The Commission has developed and published leaflets with information on how to register complaints, and disseminated these through its meetings and other events.

- **Regular Reviews through Child Rights Committee**

The Commission's Child Rights Committee has convened several meetings with a view to finding more effective approaches to addressing corporal punishment in schools.



**In the 2015 Dhaka BIT case, the principal of a reputed private English Medium school in Gulshan appeared in person and offered an unconditional apology to the parents.**

# CHALLENGES



**A robust review process would ensure that decisions are made that are compliant with the High Court Rule and the Government Circular and Guidelines.**

In respect of the eleven cases referred during 2014-2015, the Commission did not take action in six cases; in four cases, the concerned school authorities took steps against those responsible, in one (Complaint No. 364/14) the complaint was found to be untrue, and in one (Complaint No. 383/14 Faridpur Govt. Girls School case) the Commission apparently accepted the finding in the investigation report which suggested that the teacher was justified in imposing corporal punishment. This decision is contrary to the High Court Judgment and Government Circular and Guidelines which ban corporal punishment.

The main challenges to ensuring the effectiveness of the BNHRC's complaint handling mechanism based on our analysis are as follows:

- **Decision review**

Following the analysis of Complaint No. 383/14 (Faridpur Govt. Girls School case), it appears that there is no appeal or a review mechanism regarding any decision by the Commission. A robust review process would ensure that decisions are made that are compliant with the High Court Rule and the Government Circular and Guidelines.

- **Public information campaign**

The NHRC has no specific public information campaign focused on its role in addressing corporal punishment in educational institutions. Establishing links with the Ministry of Education and legal aid and rights based organizations would increase the reach of its public information campaign.

- **Delay in Investigation and timeline for responses**

Investigation reports are routinely submitted late; out of eight complaints by BLAST in 2014, only two investigation reports were submitted within deadline, with some pending for up to 5 months, with consequent delays in decisions (eg in Complaint No. 260/14 (Khulna Ghoshnagar Government Primary School), the BNHRC took almost a year to resolve the complaint). There is no timeline for investigations in the BNHRC Act 2009 or any internal guidelines, and no Rules have been adopted to date.

- **Monitoring and oversight**

The Commission has no dedicated focal point to monitor allegations of corporal punishment in media and NGO reports, or complaints received.

- **Exercise of powers**

The power to summon alleged offenders and make recommendations for taking appropriate action is yet to be fully exercised.

- **Lack of disclosure of complaints received and outcomes**

There is no information about the BNHRC's decisions in the media or its own web portal.

# CONCLUSION AND RECOMMENDATIONS

The High Court judgment marked an important shift, with corporal punishment being recognized as a crime, and opportunities becoming available to put in place preventive measures, and to seek redress for the children affected. While such steps have started to be taken, much remains to be done, not only to put in place effective remedies, but to change social attitudes that condone the practice. It remains the case today that the vast majority of incidents go unreported, with many parents preferring to settle or compromise with the offenders, even though their child may live with the scars of their experience.

The Commission has begun to play a significant role in ending corporal punishment in schools and other educational institutions, by demonstrating that it is possible to secure remedies for vulnerable victims. And yet it cannot achieve its objective without support from government and non-governmental agencies, and without a further change in social attitudes and in the acceptance of the practice. To this end, we set out recommendations below for further action required not only from the BNHRC, but also from concerned stakeholders, including concerned Ministries of the Government of Bangladesh, Civil Society and the Media.

## **For the National Human Rights Commission**

It is recommended that the Commission takes the following steps to strengthen its role in dealing with complaints related to corporal punishment in educational institutions:

1. Appoint a dedicated focal point and arrange regular meetings with stakeholders to monitor allegations of corporal punishment in media and NGO reports and assess progress in action taken.
2. Exercise its powers under Section 12 of the BNHRC Act to recommend disciplinary action and/or award interim financial relief to children who are victims of corporal punishment where appropriate.
3. Ensure investigation reports are submitted on time by setting internal deadlines.
4. Disclose information on nature of complaints received and decisions and actions taken through its website.
5. Undertake public awareness campaigns about the BNHRC's role in addressing corporal punishment.
6. Explore active partnerships with civil society organizations for joint investigation, monitoring and follow-up of complaints on corporal punishment of children.
7. Propose repeal of the provisions permitting whipping in the Whipping Act, Prison Act, Borstal Schools Act, Railways Act and the Cantonment Pure Food Act, and communicate with relevant Ministries in this regard.

These draw upon our research as well as the recommendations made by participants at a roundtable meeting on ending corporal punishment which was organized by BLAST, CAMPE and SCI at the Daily Star Bhaban on 20 December 2015.



**Appoint a dedicated focal point and arrange regular meetings with stakeholders to monitor allegations of corporal punishment in media and NGO reports and assess progress in action taken**



# CONCLUSION AND RECOMMENDATIONS



**Set eligibility criteria for members of school management committees and include persons with knowledge on corporal punishment.**

## **For the Ministry of Education**

1. Hold periodic meetings (at least three times per year) with all stakeholders to review progress in ending corporal punishment of children in educational institutions.
2. Hold consultations with relevant stakeholders at divisional and national level to incorporate clear prohibitions in the draft Education Act on corporal punishment in educational institutions.
3. Ensure all primary and secondary schools and madrasas frame the GoB circular of 9 August 2010 on ending corporal punishment, and visibly place it on notice boards, and on the Head teacher/Principal's room.
4. Constitute a monitoring and oversight body at district level (including members of the Child Welfare Board, child psychologists, media and civil society organizations) to address allegations of corporal punishment in schools and madrasas.
5. Recognize educational institutions which have adopted best practices in ending corporal punishment, by annually honouring the school management and teachers through a national programme.
6. Set eligibility criteria for members of school management committees and include persons with knowledge on corporal punishment.
7. Include an explicit provision in service rules for teachers identifying that corporal punishment shall be treated as professional misconduct.
8. Provide positive discipline training for teachers to increase their capacity to ensure classroom management in a non-violent way, and incorporate specific content regarding 'non-violent ways of class room management' in teacher's training curriculum in both primary and secondary educational institutions. (NB Save the Children has developed a resource pool of district primary education officers in Meherpur on positive discipline, and oriented around 1200 primary school teachers on positive discipline including Directorate of Primary Education (DPE) officials)
9. Introduce a web based e-monitoring system in both primary and secondary education directorates and incorporate indicators related to physical and humiliating punishment including violence against children (NB Save the Children is currently working closely with DPE in piloting web based e-monitoring in 5 Upazilas. It is expected that this e-monitoring system will replace traditional inspection system of DPE).
10. Appoint a focal point (eg Deputy Director of Inclusive Education, DPE) to oversee initiatives for ending corporal punishment against children from central to school level.
11. Hold awareness programmes aimed at parents and guardians on the impact of corporal punishment on children's health.

# CONCLUSION AND RECOMMENDATIONS

## **For the Ministry of Home Affairs**

1. Propose repeal of specific sections of the Whipping Act, 1909, the Railways Act, 1890, the Cantonments Pure Food Act, 1966, the Prison Act, 1884, and The Borstal Schools Act, 1928 which authorize whipping and corporal punishment of children.

2. Maintain central records of and monitor all pending criminal proceedings regarding serious allegations of corporal punishment of children.

## **For the Ministry of Law, Justice and Parliamentary Affairs**

1. Amend the Children Act 2013 to prohibit corporal punishment in all settings, and take steps for consequent amendment of other laws which permit such punishments.

2. Review proposals submitted by Ministries/ Law Commission for repeal of specific sections of the Whipping Act, 1909, the Railways Act, 1890, the Cantonments Pure Food Act, 1966, the Prison Act, 1884, The Borstal Schools Act, 1928 which authorize whipping and corporal punishment of children; and for amendment or adoption of other laws providing protection to victims.

3. Frame proposals for amendment or adoption of laws, policies and guidelines, including the Children Act, 2013 and National Child Policy 2011, to provide for ending physical and humiliating punishment of children in all settings in consultation with relevant stakeholders.

## **For the Ministry of Women and Children Affairs**

1. Establish a Directorate of Children Affairs under the Ministry of Women and Children Affairs (MoWCA) as stipulated in the Early Childhood Care and Development (ECCD) Policy 2013. This could work towards banning of corporal punishment.

2. Incorporate a regular agenda item on addressing physical and humiliating punishment in meetings of the National Women and Children Council, the secretariat of which is MOWCA and which is headed by the Hon'ble Prime Minister.

## **For Civil Society**

1. Undertake concerted efforts to implement High Court judgment banning corporal punishment through advocacy, communication and awareness raising in working areas.

Section 3, 4 and 5 of the Whipping Act 1909, Section 130 of the Railway Act 1890, Sections 3-11, Section 13 and 23(1) of the Cantonments Pure Food Act, 1966; Section 53 of the Prison Act, 1884 and Section 4 of the Borstal Schools Act 1928. (Also see Annex for details on each sections of the Act)

Section 3, 4 and 5 of the Whipping Act 1909, Section 130 of the Railway Act 1890, Sections 3-11, Section 13 and 23(1) of the Cantonments Pure Food Act, 1966; Section 53 of the Prison Act, 1884 and Section 4 of the Borstal Schools Act 1928. (Also see Annex for details on each sections of the Act)



**Maintain central records of and monitor all pending criminal proceedings regarding serious allegations of corporal punishment of children.**

# CONCLUSION AND RECOMMENDATIONS



**Build a social movement/resistance to end corporal punishment in all settings.**

## **For Civil Society**

1. Undertake concerted efforts to implement High Court judgment banning corporal punishment through advocacy, communication and awareness raising in working areas.
2. Build a social movement/resistance to end corporal punishment in all settings.
3. Continue to engage with the Law Commission and the Legislative and Drafting Wing of the Ministry for Law, Justice and Parliamentary Affairs to repeal laws which permit corporal punishment.
4. Disseminate information through Union Information Centres, print, electronic and social media to spread the word that corporal punishment is prohibited and is a punishable offence.
5. Submit applications to the BNHRC and to Ministry of Education for investigating allegations of corporal punishment of children, and providing redress.
6. Organize district level consultations and follow-up meetings with relevant officials, district and primary education officers, Child Welfare Boards representatives, like-minded organizations, child psychologists, guardians, teachers, and children, as well as the media, for common approaches and action against corporal punishment of children. Urge appointment of trained counsellors and special educators in every school and madrasa for children who are particularly vulnerable, including children with disabilities.
7. Continue to support and assist NHRC to strengthen it as an effective forum for redressing corporal punishment.
8. Hold awareness programmes aimed at parents and guardians on the impact of corporal punishment on children's health.

## **For the Media**

1. A Journalist's Forum for Ending Corporal Punishment may be established in every Upazilato engage with government and non-governmental activities on the issue.
2. Daily Newspapers may dedicate a front paper space with slogans on ending corporal punishment to spread the message amongst their readers.
3. Report on allegations of corporal punishment, and on achievements and best practices around the country in preventing or punishing such incidents, by teachers, government officials and individuals.
4. Report and comment on good and positive parenting models, and positive discipline as a teaching method, and publish evidence on the harm to children' corporal punishment/physical and humiliating punishment.