



JOINT STATEMENT ON INTERNATIONAL DAY TO END CORPORAL PUNISHMENT OF CHILDREN - SOUTH ASIA

BACKGROUND:

April 30, 2024: 30th April is the International Day to End Corporal Punishment, the only day dedicated to a specific type of child abuse. The United Nations Convention on the Rights of the Child (CRC) 1989,¹ the most widely ratified international treaty concerning children's rights, requires “States to 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.”

However, corporal punishment is the most common form of child abuse affecting over 1.3 billion children across the world. The consequences of physical abuse have a significant burden on education, health, law and order and social services of a country affecting the productive contribution of the young generation. Worldwide around 4 in 5 of all children aged 2-14 years are subjected to corporal punishment in their home every year (physical punishment and/or psychological aggression). Research has found strong evidence connecting violent punishment with multiple harmful impacts for the child and society, including significant economic costs.

Children are the most vulnerable community in any country that requires effective legislature and social structures to protect and promote their rights. In 2015 countries around the world committed to Sustainable Development Goal 16.2, end violence against children by 2030 but the progress to date is far from satisfactory. With six years until 2030 and the end of the SDG timeframe, 2024 is a critical year for keeping the promise to end violence against children in SDG target 16.2.

A. BANGLADESH:

In 2011, the Ministry of Education issued a circular banning corporal punishment in educational settings in Bangladesh. In 2013, Bangladesh enacted the Children Act, 2013 which criminalized

¹ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC) < <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> > accessed 11 April 2023.

cruel acts against children. Section 70 (i) of the Act provides, "If any person with custody, charge or care of any child assaults, abuses, neglects, forsakes, abandons them as unprotected, uses them for personal service or exposes them in an obscene way and thereby causes unnecessary suffering or injury by which the child's sight or hearing is damaged or injury to any limb or organ or causing mental derailment, then he will be deemed to have committed an offence under this Act. The penalty is imprisonment for up to five years or a fine of up to one lakh taka or both. However, children continue to be beaten and humiliated by teachers. In addition, they are subjected to corporal punishment at homes, workplaces, etc. According to the Multiple Indicator Cluster Survey 2019 by the Bangladesh Bureau of Statistics and UNICEF, 89 percent of children (1-14 years) in Bangladesh experienced violent discipline. The awareness that cruelty against children is illegal in Bangladesh is very limited. Socially, this matter is still not seen as a serious threat to the children, let alone being widely stigmatized and condemned.

B. INDIA:

India emphasizes creating a safe and nurturing environment for every child in the country. Article 21 of the Indian Constitution, the Right to Education (RTE) Act, the guidelines of the National Commission for Protection of Child Rights (NCPCR), and the Juvenile Justice Rules are the honest reflection of the Indian legislature's unwavering work towards eliminating corporal punishment. However, the Supreme Court of India delivered a judgment on 1st December 2000 directing the State to ensure "that children are not subjected to corporal punishment in schools and they receive education in an environment of freedom and dignity, free from fear," concluding that it violates the fundamental 'Right to Life'.

Indian constitution gives all directions and rights for children's care and protection under various provisions. Even the Child Helpline toll-free number (1098) is working but the implementation mechanism has become very poor because the district and state-level civil society organizations/NGOs support system was eliminated by the Government. The children's emergency call address center should be established at the block or Subdivision level.

C. NEPAL:

Nepal is the first country in South Asia and fifty fourth country in the world to ban corporal punishment. In September 2018, Nepal adopted the Act relating to Children 2018 which explicitly prohibits corporal punishment of children in all settings. Section 72(3)(a) of the Act provides that the perpetrator would be fined up to fifty thousand rupees and imprisonment of up to one year. However, the sad reality is that the sample data collected by Legal Literacy – Nepal from 24 schools of 12 districts out of 77 districts shows that 88% children faced physical and psychological punishment in schools alone. UNICEF Nepal's 2019 research finds that 77% children have experienced psychological aggression and 63% children have experienced physical punishment.

D. PAKISTAN:

Pakistan has made positive strides in promulgating federal and provincial laws and policies aimed at advancing children's rights. *Article 25-A* of the *Constitution* mandates free and compulsory education for children aged 5-16 and *Article 37-A* states that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". In 2016, the milestone *Sindh Prohibition of Corporal Punishment Act, 2016*, was promulgated in the country's second-largest

province. The law bans harsh disciplinary practices like caning that are prevalent in schools nationwide and are normalized by deeply entrenched cultural norms. The law supersedes the legal defense available to teachers for corporal punishment of children under 12, as provided by *Section 89* of the *Pakistan Penal Code*. In 2019, upon petition, the Islamabad High Court suspended the egregious penal clause, however, its suspension is limited to the federal capital territory. In November 2021, the *Islamabad Capital Territory Prohibition of Corporal Punishment Act, 2021*, was legislated by the National Assembly to ban corporal punishment in educational institutions in the capital. As per the *Section 33* of the *Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010*, “corporal punishment stands abolished in all its kinds and manifestations...” across the northern province.

E. SRI LANKA:

Sri Lanka is the only path-finding country in South Asia committed to SDG 16.2 in 2017. In February 2021 the Supreme Court of Sri Lanka gave a historic verdict recommending penal code reform to abolish corporal punishment unequivocally. In January 2024 The Children and Young Person’s Ordinance Act was amended and enacted in parliament changing the age of a child from 16 to 18 years and repealing section 71(6) on corporal punishment of children in custody and care. However, Penal Code section 82, punishment done in good faith for children less than 12 years of age and section 341(i) school master flogs a student are both de-criminalized making implementation of the law ineffective.

OUR CALLS TO THE GOVERNMENTS:

We call upon the government of Bangladesh to enact a separate law to ban corporal punishment of children and form an inter-ministerial coordination body to implement the National Child Policy, 2013 to prevent corporal punishment of children in all settings across the country.

Likewise, we call upon the government of India, civil society organizations, parents, and educators to join us in this journey of making India a zero-tolerance nation concerning corporal punishment as per the Nation’s Vision. Guidelines for Eliminating Corporal Punishment in Schools issued by National Commission for Protection of Child Rights (NCPCR) must be implemented effectively PAN India with immediate effect.

We call upon the Government of Pakistan to ensure corporal punishment is banned in schools nationwide and to provide high-quality training to teachers on positive discipline approaches to replace the harmful use of such practices.

We call on the Ministry of Education, Science and Technology, among others, to issue a directive order to the Education, Youths and Sports Department of all Municipalities/Rural Municipalities to develop Child Safeguarding Policy and implement it in all schools of Nepal.

We call upon the government of Sri Lanka for the submission of the Cabinet memorandum on legal reforms to unequivocally prohibit corporal punishment and its effective and sustainable implementation.

SIGNATORIES:

1. Ashoke Barua, Executive President, Bangladesh Buddhist Federation, Bangladesh, <http://www.bdbuddhistfederation.org/>
2. Iftekhar Ahmed, Director, Centre for Services and Information on Disability (CSID), Bangladesh, <https://www.csid-bd.com/>
3. Mohammad Jawed Quereishi, Program Manager, National Health Mission, India, <https://nhm.gov.in/>
4. Prof. Dr. Rakesh K. Gorea, President, Society for Prevention of Injuries and Corporal Punishment (SPIC), India, <https://www.rakeshgorea.com/spic>
5. Ajmer Chouhan, Co-founder & Treasurer, PEACE Society, India, peacesociety01686@gmail.com
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7. Om Prakash Sen Thakuri, Co-Founder and Executive Director, Legal Literacy – Nepal, <https://lln.org.np/>
8. Shehzad Roy, Founder - President, Zindagi Trust, Pakistan, www.zindagitrust.org
9. Sabir Farhat, Executive Director, Pakistan Rural Workers Social Welfare Organization (PRWSWO), Pakistan, <https://www.prwswo.org.pk/>
10. Muhammad Omer Imran, Program Development Manager, Society for the Protection of the Rights of the Child (SPARC), Pakistan, <https://www.sparcpk.org/>
11. Dr. Tush Wickramanayaka, Founder Chairperson, Stop Child Cruelty Trust, Sri Lanka. www.stopchildcruelty.com