



**Workshop on challenging persisting violations of children's rights:
Encouraging effective advocacy in South Asia
1st - 3rd of May 2013, Kathmandu, Nepal**

Introduction

Since the adoption of the UN Convention on the Rights of the Child (CRC), legal action and use of regional and international human rights mechanisms have been less developed among children's rights organisations as opposed to mainstream human rights organisations. In every country, there are many serious, persistent violations of children's human rights.

While legal advocacy is not a new or revolutionary idea, it is evident that it needs to expand to involve more people and organisations – not only lawyers specialising in children's rights, but all those who work with and for children as well as children themselves. It is also important that children's rights groups are able to work together: that lawyers and grass roots activists are able to collaborate towards shared goals.

Since 2011, the Child Rights International Network (CRIN) has been working on a series of workshops to bring together campaigners from legal and non-legal backgrounds, to explore the possibilities of legal advocacy to advance children's rights. The first of these took place in Turkey in October 2011 and the second in Kathmandu, Nepal, in May 2013.

At these events, campaigners addressed recurring and persistent violations of children's rights in their country or region. Through supported and organised discussions, they examined the options for challenging these violations, identified the legal blockages to improving the situation and worked towards creating a concrete plan of action for taking legal advocacy forward.

CRIN will be facilitating more of these workshops and will collate experience and lessons from each of them. The aim is to produce a comprehensive guide to organising, running and following up on these legal advocacy workshops to challenge persisting violations of children's rights.

What do we mean by legal advocacy

Legal advocacy is a pathway for challenging abuses of rights that are based on absent or weak laws, or on laws that represent an abuse of rights in and of themselves. This might include encouraging a government to create a law against a particular violation of rights or calling for the abolition of legislation that protects the perpetrators of a violation (such as laws that give adults a "right" to corporal punishment of children). Legal advocacy is an important, sometimes neglected, tool for rights defenders and is one that can be used both in isolation and alongside more traditional political and social advocacy techniques to advance child rights.

Legal advocacy itself includes a variety of methods, such as:

- Strategic litigation, or taking governments and authorities to court to challenge rights abuses with the hope of setting precedents or changing domestic law. This is increasingly being

done through holding governments to account by invoking their obligations under regional or international human rights standards (CRC, European Convention on Human Rights etc).

- Working through legislatures to change existing laws or have new laws brought in. This could be by directly working with national representatives or by engaging with committees and other elements of the law making process.
- Legal and quasi-legal representation of those who have suffered a violation of their rights.
- Engaging with legally involved representatives such as ombudspersons.

The South Asia workshop

The shared traditions, customs and legal systems pertaining to children in South Asia presented a natural opportunity to discuss the common violations taking place in the region. This report summarises the workshop organised by CRIN and Backward Society Education Nepal (BASE) which took place from 1st to 3rd May 2013 in Kathmandu, Nepal.

The report has been divided into six parts:

1. Preparations for the workshop and methodology
2. Summary of discussions and case studies on gaps in domestic legal remedies / legislation
3. Development of country plans
4. Outcomes and commitments
5. Next steps
6. Annexes

Part 1: Preparations

Participants

The general objective of this workshop was to work with like-minded children's rights advocates in South Asia to explore the use of legal advocacy as another approach to combating children's rights abuses - with the long term goal of changing the law so it would respect children's rights.

Consequently, participants were approached because of their expertise in a range of fields – including media, social and/or human rights activism, law (i.e. local lawyers working with communities to Supreme Court lawyers) and child protection (including in relation to gender or minority rights). Representatives from national and regional networks also took part.

Excluding the staff from the two host organisations, 26 participants represented the following countries: Afghanistan, Bangladesh, India, Nepal and Pakistan. (See Annex 1 for the complete list of participants, their organisation's name and their country of representation.)

Objectives

The objectives of the workshop were:

- To bring together children's rights activists from different countries and backgrounds to review a selection of persistent violations of children's rights and to "match" them with possible forms of legal or quasi-legal advocacy;
- To identify what obstacles had previously prevented the remedy of these violations;
- To develop a path for legal advocacy, using national, regional or international law to challenge these violations and hold States accountable;
- To identify what resources, participation and skills were needed to pursue these forms of advocacy: for example, would individual child victims have to be identified and "used"; were appropriately trained

and experienced lawyers available; were financial resources such as legal aid sufficient to support action;

- To build an understanding of what CRIN could do to encourage and support these forms of advocacy; and
- To develop concrete plans to pursue legal advocacy.

Questionnaire

Participants were sent a pre-workshop questionnaire which asked them to identify:

- the current legal issues they were working on,
- any successful or ongoing campaigning on legal issues in their country or field of work, and
- if they were aware of any current or upcoming opportunities for legal reform opportunities in their country (for example, prominent legal cases, new relevant legal codes, draft laws under consideration etc). The questionnaire served to get all of the participants thinking about the field of legal advocacy and children's rights, and endeavoured to provide a useful background for the workshop process.

Part 2: Discussions and Outcomes

The three-day workshop consisted of a series of plenary sessions and working groups. Initially, the discussions concentrated on the legal status of the child in the five countries and explored legal actions to challenge persistent violations. The discussions then focused exclusively on the eventual goal of the workshop: for participants from each country group to develop an action plan which would identify chosen persistent violations and try to find legal options available to challenge these violations.

The introductory plenary session expanded on the idea of legal advocacy in human rights, and how it differed from grassroots campaigning. It was emphasised that this was a 'harder' sort of advocacy than a lot of human rights advocates were used to using, with options including: identifying an area of the law that caused rights violations or a gap in a law that meant rights violations happen, then using legal means to get a change in the law.

The rest of this report will now focus in detail on the key discussions and outcomes arising from all the working groups.

Day 1, Session 2: Legal briefings

This session served as a useful platform to share best practice examples on the legal status of the CRC as well as the legal status of the child in the five South Asian countries. The participants were divided into four groups, and had equitable representation from all the countries and professional backgrounds – child rights or human right advocates as well as more legally minded representatives (who helped lead the discussion on the legal briefing). The groups worked to clarify legal advocacy and help develop an appreciation and understanding of how these varied or were similar between countries and what these meant for their campaigning and advocacy.

Specifically, the following areas were discussed:

- the legal status of the CRC in their countries;
- the legal status of the child in their countries;
- opportunities for legal advocacy; and
- any practicalities of legal advocacy.

In terms of the legal status of the CRC, in summary, all the countries have ratified the CRC and the Optional Protocol to the CRC on the involvement of children in armed conflict and Optional Protocol to the CRC on the sale of children, child prostitution and child pornography, but not the Optional Protocol to the CRC on a communications procedure. In terms of implementation of the CRC through domestic law, the situation varied for each country. In Afghanistan, it had yet to be formalised through national legislation. In India, it was implemented through education and economic policies, as well as other subject-specific rights. In Pakistan, it was translated into national law only on a piecemeal basis, although, following the workshop, this situation is being addressed in earnest by child rights activists since a new civilian government has taken power. The CRC in Bangladesh did not automatically become part of national law, although the recent enactment of the Children's Act 2013, following the workshop, is meant to be more harmonious with the CRC. The delegates from Nepal were unclear whether the CRC formed part of national law.

Reports on legal briefings for each country, prepared in advance, were distributed to each participant at the workshop, resulting in subsequent discussions on the legal status of the child in each country. Participants brought their own examples to these discussions, and these sessions presented a good opportunity for sharing ideas and experiences.

A few legal advocacy options or ideas were advanced. Since most of the groups felt that there were problems of implementation by courts, lawyers, police, teachers, community and children, amongst others, possibly because of a lack of awareness of the CRC, the groups believed there was a need to carry out a campaign about the CRC to the grass-root level. The notion of "public interest litigation" was also put forward as an effective legal advocacy tool. For instance, participants from Nepal noted that citizens have the right to file a petition with the Supreme Court to challenge a national law that imposes an unreasonable restriction on fundamental constitutional rights or is otherwise inconsistent with the Interim Constitution. They also noted that the focus of their work on child labour was on legal reform through the legislature rather than use of the courts to create pressure. The representative from BLAST (Bangladesh) shared his experience of their public interest litigation on corporal punishment, a process that others in the group were familiar with. He also raised a case currently before the Court of Appeal on the constitutionality of the death penalty as a sentence for children.

Other options included the effective use of paralegals. It was noted that there are paralegals in local and district levels in India, Pakistan and Bangladesh who offer legal assistance to children and other vulnerable groups, and that one method to strengthen their use would be to provide them with effective training.

There were many discussions around the practicalities involved in bringing a case to court. Informal barriers to using the courts were widely experienced in all of the countries: namely, (i) overt corruption; (ii) use of delay to force litigants to give up their case or to attempt to force a settlement; (iii) legal aid being a major barrier – in many cases, it was not available; and (iv) claimants facing threats and intimidation during the legal process, forcing them to enter compromise agreements.

Discussion also focused on the role of the government. It was believed that Pakistan needed a Children's Ministry for effective and proper implementation of laws regarding children's rights. And since Nepal doesn't have a government, the judiciary was the best place to enforce children's rights and bring about legal change. But it was found that the judiciary is extremely overloaded and there is a huge backlog of cases. There were discussions on progression by the judiciary to tackle an issue. For example, the Supreme Court of India recently passed a landmark direction for compulsory registration of complaints of missing children. The petition was brought by one of the workshop participants, BBA.

The issue of legal aid was much debated, with participants noting that the legal aid provisions were in place in all nations except Afghanistan. But there were still problems, such as not all expenses were covered or lack of availability of lawyers. The consensus among the groups was that the law is not the main problem in South Asia - it was people's disregard for it - and making new laws wouldn't have the desired effect that happens in other parts of the world.

Day 1, Session 3: National legal advocacy discussions (country groups):

This was an introduction to the next two days, where participants would stay within their country group and devise a concrete action plan to identify and challenge a specific number of chosen violations. The country groups started to identify ways of challenging violations of children's rights through the use of domestic courts. Since most international or regional legal challenges could only be made after domestic remedies had been exhausted, it was important to identify all of the national options. Cross-country examples helped here, such as class actions.

Day 1, Session 4: Persistent violations

Through its work, CRIN identified serious, ongoing violations of children's rights that have been persistently raised by international human rights mechanisms. The purpose of this workshop was to focus on the ways legal advocacy could be used to address some of these violations and to make concrete plans to encourage and support such advocacy. Therefore, the focus was on issues where law reform was needed and which were susceptible to legal challenge. Specifically, the workshop focused on issues where:

- The law itself was inherently violating children's rights – e.g. the law authorised life imprisonment, or justified corporal punishment by parents/teachers;
- There was no law which prohibited a violation (e.g. there was no law that specifically addressed the trafficking of children) or upheld a right (e.g. the right to education for children in detention); and
- The law was so poorly formulated, vague or weak (e.g. lacking necessary detailed regulations, appropriate sanctions and enforcement mechanisms and guidelines) that it failed to protect children's rights in reality.

The participants chose one persistent violation from the following: Child Labour, Child Trafficking, Corporal Punishment, Education, Harmful Traditional Practices (HTP), Health, and Juvenile Justice. This report has endeavoured to capture the most notable ideas and viewpoints raised across these group discussions, in particular looking at the legal challenges and options, through the nine questions which were posed to the participants.

1. Overview of the violation:

Depending on the violation being discussed, it had repercussions on other violations. For instance, child labour also violated other rights, in particular, the right to life (for instance, child labourers in Nepal were often killed, raped or assaulted), freedom from violence, freedom of expression, right to education, right to health, and right to play. Similarly, the group discussing HTP noted that this issue also impacted on the right to freedom of opinion, education, health and expression. Lesser known violations or facts also emerged. For instance, the HTP group noted that with regard to early child marriage, this affected both young girls *and boys* where their marriage was arranged by parents at the time of their birth.

2. Why does the violation persist?

Generally speaking, the following points emerged from most of the groups with regard to why the violation still persisted: children's rights were not a priority for governments, lack of awareness, lack of implementation of the law, laws were not compatible with articles of the CRC, discrimination against children, no access to courts, political parties not being interested in the implementation of laws, and governments neglecting the issues.

The aspect of the private sector and business also arose. The participant from Global March (India) spoke about how child labour was a global problem because companies around the world wanted to maximise profit and children were seen as cheaper labour. The Nepali participants spoke about how (when they had one) the government was often reluctant to change laws because they (both in terms of the economy and as individuals) were profiting from child labour. The group also spoke about how child labour was inter-linked with human trafficking in the region, and how all countries had a problem with this. The groups on juvenile justice and trafficking noted that lack of political will was a particular problem. For instance, there was an extent to which juvenile justice was seen as an insular area of work and that it was difficult to engage with the public. The group on trafficking noted that while some legal reforms had been made (Bangladesh, for example, has a new law on trafficking), these were often hampered by a lack of awareness and unwillingness to act.

Many groups noted that some violations were not considered as such by society i.e. they were seen as normal aspects of life. This was especially seen to be the case by the group discussing HTP, who also noted that at its worst, this violation was seen as protection of the child (for instance, with regard to early child marriage or circumcision).

3. The process of identifying the child victims:

This was often discussed in tandem with the other questions. The group on trafficking noted that the focus was very much on women and children, rather than seeing each in their own right, so this was one area to address. Effective laws could help to identify the victims. For instance, with regard to trafficking, Bangladesh has a new law which requires the government to monitor the movements of children between different areas of the country. The data this provides has helped highlight the issue of trafficking and is being used to mobilise sympathetic MPs to pursue stronger measures and to promote both awareness of, and willingness to challenge, the problem of trafficking.

In terms of collecting evidence for child victims, many groups noted that the effectiveness of having a birth registration system in place would help.

4. Previous legal challenges:

Various examples were noted amongst the groups. The participants from India, who contributed across the different groups, all noted that the Supreme Court of India was seen as highly active in many respects. Litigation to address lack of implementation of legal decisions was commonly used in India. In some ways, there was a sense that litigation was never ending. For instance, a case would be brought, the court would order the development of new institutions (such as the office for monitoring the juvenile justice system), and then when the outcome turned out to be not all it was hoped to be, the process would start again.

The Bangladeshi participants discussing trafficking noted that it was often useful to start at the Human Rights Commission level, then use the relevant sub-committees to hold the relevant people to account. Also regarding trafficking, BBA explained how in India, a government response to the trafficking issue was mainly achieved through indirect means. For example, a recent change of the law to give a legal definition of trafficking was done via a review that was supposed to address laws on the sexual assault of women. When activists were brought in to brief the committee, they were able to connect the issues of sexual assault and trafficking and emphasise the need for clarity and a strong legal definition of the latter. This was vital because while trafficking was formally prohibited, a legal definition of the term did not exist, leaving the law almost unenforceable.

Likewise, terms like “exploitation” appeared in law, but were undefined. BBA decided to focus on gathering data on the problem, then using this to push for clarity and action from law makers. They did this by starting at the lowest level - that of the individual police station, tallying individual complaints on disappearances, recovery of lost children and reports/arrests for exploitation. This micro-scale data allowed them to extrapolate numbers for regions and, eventually, the country as a whole by identifying a “trafficking gap”. This also gave them first hand experience of how public servants do - or do not - follow procedures for dealing with missing children or other child related issues. That initial challenge was put forward through the Supreme Court. It was then possible to press for the use of internationally agreed upon definitions of terms like trafficking and to then disseminate these judgements down the chain to district courts etc.

5. Options for legal challenge.

Many different types of options were advanced by the groups, and many of these could be used for the different violations. One idea was to look at changing the law to ensure higher penalties for the perpetrators. Many groups talked about approaching national commissions, and using public interest litigation with a mass movement. The example of a case by BBA in the Supreme Court of India tackling trafficking and getting circus work listed as ‘hazardous’ was highlighted as a good example of using litigation as effective legal advocacy (this will also be discussed later in the report).

There had been some success in fighting violations through the provincial courts, where issues of implementation could often be addressed more directly. Another tactic was to pursue personal legal challenges to officials who failed to follow proper procedures in dealing with children’s cases, in order to challenge corruption and apathy at that level. In India, for example, they have been able to bring contempt of court actions against senior police officers for failing to assign the correct officers to cases involving children.

The group discussing education had a very animated discussion on how to challenge violations in courts. The Nepalese participants were encouraged by the rest of the plenary to take cases involving education to court even though there is no enabling law, as this would be seen as a tactic to enforce education (and verify why it has been blocked so far).

6. Identifying possible partners:

Depending on the violation being discussed, specific types of actors who could help were identified. For instance, the group discussing child labour spoke about the need for a ‘task force’ with representatives from government, civil society, labour movements, and people who worked with child labourers and the children themselves. Potential partners to help fight trafficking included the police and law enforcement officials, social welfare organisations and other NGOs. The group also noted that one particularly useful area of work at the moment was bringing NGOs and officials together to raise awareness of the laws and their implementation on children’s cases. The participants from Bangladesh, across the different groups, noted that relevant parliamentary groups had been seen as good partners.

Children’s groups and youth clubs were highlighted as being important partners, especially when working on trafficking issues. Often, in cases of trafficking or where a child was being threatened with this violation, these groups were seen to be the early warning system or first point for gathering information, especially as children would often discuss issues with their peers that they wouldn’t be comfortable talking about with adults, so, these groups could be an important way of identifying “at risk” children.

7. Possible steps for challenging violations:

Most of the groups were very interested in teaming legal advocacy with grass roots campaigning.

In India, there had been attempts to direct advocacy at “duty bearers”, particularly police working with children. There was also a need for legal education, to work alongside the more overt forms of legal advocacy. The HAQ Centre for Child Rights had worked with the Police Juvenile Justice Unit to educate those who worked with children in the justice system on the legal framework.

The Bangladeshi participants in the group discussing trafficking noted that one of the major next steps in Bangladesh was to secure money for the budget allocation to children and ensure accountability of spending. There was currently a severe lack of transparency on these issues, making it easy for misallocation of resources to continue.

Groups also discussed lobbying political parties to include child rights in their manifestos. Similarly, pursuing a dialogue with a disinterested government was also mentioned, as persistence would help force the government to implement laws. Another possible step was to link up with national level lawyers as well as the bar associations in the different countries.

8. Any identified obstacles?

Many types of obstacles were identified. With regard to laws, depending on the violation, some felt that laws were old and needed to be modified or that new laws should be formed. Most participants also felt that a lack of political will hindered any process for progress. Many groups mentioned that there was a lack of mechanisms to pressure States towards proper implementation of existing laws.

The issue of “reform fatigue” was highlighted, notably that it can be difficult to keep people interested in the ongoing justice reform, when it feels like the laws are constantly changing. Participants from India were quite vocal in discussing this issue. The group discussing juvenile justice noted that there was a serious problem of how to deal with ineffective, inept or un-cooperative officials in the important roles. The ideal situation was to have cooperation between “mandate holders”, NGOs and activists.

Most groups talked about speeding up or stopping the legislative process for political gain. For example, in India, in the aftermath of the recent Indian gang rape case, a lot of the lobbying conducted was to prevent legislation being passed in the heat of the moment. However, in Pakistan, the focus on the previous out-going government's last few months meant that all bills regarding children never came to fruition. One such example was the bill on Corporal Punishment. SPARC brought the Prohibition of Corporal Punishment Bill as a private member Bill in 2010 which was finally passed by National Assembly in 2013. However, the bill could not become a law because the National Assembly was dissolved before the bill could be tabled and passed in the Senate.

9. Any specific upcoming opportunities:

Training of different groups was seen as one opportunity to address the violation, for instance training lawyers at the sub-divisional level as well as training paralegals. And in the case of juvenile justice, to train police on current legislation protecting children.

The group discussing trafficking noted that concerns raised in one country could be used to inspire action across the region. For instance, after BBA and its allies in India were able to put forward an estimate of trafficked children, the Pakistani government now wanted to know similar figures for its children as well, so this would inspire future enquiries.

Part 3: Country plans

Days 2 and 3 focused on the preparation of country legal advocacy plans and the eventual presentation of the plan by a chosen representative from each of the five countries. There was an emphasis to include the strategic litigation process and examples, including how to begin an investigation and gather all publicly available documents and data relevant to a case (media articles, academic reports, case studies).

For the purpose of this report, each of the country plans are annexed.

Part 4: General outcomes - successful case studies

Some clear outcomes and best practice examples emerged from this workshop, most notably the detailed plans presented by each country group which addressed the issues discussed. In essence, there were three clear categories of outcomes: the subject-matter of the workshop; general comments common to all the group and plenary discussions, as well as best practice examples cited; and finally, the experiences gained by the participants from attending such a workshop.

Subject-matter of workshop:

Outcomes specific to the concept and objective of the workshop were as follows:

- An increased understanding and support for the need to access effective legal channels, at local, national, regional and international level.
- If possible, for participants to find ways to work collaboratively, either cross-nationally or cross-regionally.
- The development of concrete country plans to address the issues discussed, where appropriate, by legal advocacy within the groups themselves.
- Securing a commitment from the organisations involved to consider/pursue legal advocacy as an option for challenging violations of children's rights.
- A hope that this type of advocacy will feature more prominently or more frequently in participants' organisational strategies and plans i.e. to incorporate the resources and ideas gained at the workshop into the participants' strategies. So, if a legal advocacy element is missing, to consider adding it; if this technique exists but is weak, use the best practice examples to strengthen it.

Comments and case studies:

The following general comments and best practice examples emerged:

- **Some methods of how to effectively channel legal advocacy at the different levels were as follows:**
 - International level: ensure the strengthening of global governance structures;
 - Regional level: either engage more closely with SAARC or with another stronger human rights mechanism in South Asia;
 - National level: improve systems of justice and legal protection; become involved in the development of national policy; ensure good governance of executive level to implement the law; non-corruption and transparency of judiciary; free media;
 - Local level: strengthening partnerships between organisations in the region and through CRIN.
- **Identify partners participants could work with.** This could include activists, rights defenders, groups of legal professionals, international organisations, political and social movements, but also children, parents/guardians, teachers.
- **International lobbying:**
 - Make more use of treaty body recommendations and concluding observations to push governments to enact changes to law (perhaps use the treaty bodies' reports

- published regularly by CRIN).
- Send “shadow” report/evidence to UN mechanisms; the effective use of the Universal Periodic Review (UPR) / Treaty Body Recommendations as well as the General Comments would mean that the issue would shift back to the domestic level and the government would be pressured to act. [One such example given was that the constant citation and references to corporal punishment in Concluding Observations has meant that some governments have been forced to pass laws to ban this practice.]
- The importance of beginning to lobby policy-makers on critical issues long before the actual event. One such example is to start preparations and evidence-gathering long before a UPR session concerning a specific country.
- **Challenging a violation through the courts:** If a law is not working, there are multiple ways to challenge it in court. The following could be seen as an example: take a case to court based on evidence collected and through collaborative research; courts would then set a precedent and force the government to change laws.
- **Engaging with the media and judiciary:**
 - Perhaps through capacity building in the form of training workshops for legal actors (which could include paralegals). The Bangladesh group also noted that they could train the media when reporting on court cases involving violence against children.
 - Use the media effectively e.g. documentaries, news articles which might trigger a response at a higher level.

Experience of participants:

The experiences gained by the participants was an important aspect of the workshop and the following common points emerged:

- Increased awareness of the participants to the concept of legal advocacy, legal status of the child, and legal challenges and remedies.
- Sharing of expertise, building of bridges and spreading of awareness of the concept and activities of legal advocacy.
- Knowledge sharing is vital. For instance, concerns raised in one country could be used to inspire action across the region.

Three organisations presented case studies on how they achieved a successful legal action for a specific cause.

SPARC (Pakistan)

Corporal punishment was not previously prohibited in the Pakistani legal system. In fact, section 89 of the Penal Code actually allowed corporal punishment for the correction of children. SPARC started working to change this. They engaged with the relevant ministry and began investigating the procedures used for drafting a new law. Through working with the ministry to provide technical support, and with assistance from international organisations, SPARC was able to prepare a redrafting of the existing bill, which was then submitted to the national assembly. While this was under scrutiny, SPARC worked hard to keep these issues in the public eye and maintain pressure for reform. As the campaign continued, other organisations also got involved, including one of the largest national coalitions of children's groups, the Youth Network. With these organisations on-side, they were able to push through the new legislation successfully in March 2013.

BLAST (Bangladesh)

Bangladesh also has major problems with corporal punishment. As a long established custom, it has been permitted to continue with very few instances of prosecution of offenders. In 2010, BLAST noticed an increase in high profile news stories on particularly horrific instances of corporal punishment.

Building on the public outrage these inspired, they began collecting reports on these incidents for a petition to be submitted to the Supreme Court. BLAST collected a number of particularly horrific stories, including beatings and chaining of children between six to 14, which were brought to the court's attention. In response, the Supreme Court began pursuing the prosecution of corporal punishment and instituted other measures to limit this practice - including extra training for teachers on humane discipline and against the use of corporal punishment.

BLAST continued to push on this issue, surveying violations against children in eight different districts and holding meetings with relevant local officials, including school masters. They found an absence of written policies on violence against children in these districts and were able to make the case that these were necessary. BLAST also reviewed the full range of existing legislation to make recommendations to a law commission on corporal punishment, including meetings with relevant stakeholders and parliamentarians. A submission was made, with a recommendation to repeal the laws that provided a defence or a justification for corporal punishment. Working with a legal expert, BLAST also prepared a draft protection policy, which was shared with stakeholders, children, parents and teachers to get their recommendations - the results of which were integrated into a second draft. They are now promoting this policy for use in a range of institutions where corporal punishment of children might be an issue.

BBA (India)

BBA's work on child trafficking began with one particular incident. In 2004, they began looking at the issue of girls being trafficked from Nepal to India, usually to work in travelling circuses, where they often endured conditions of near slavery. With partners, they began to mount rescue operations and work towards challenging this practice, but quickly realised there was a major gap in the legislation on trafficking for forced labour. In one particularly shocking incident, when accompanied by police and a district magistrate during one of the rescues, the sub-magistrate present actually ordered police and trafficking gang members to attack the BBA team, before returning the children to the circus.

As this incident showed, in many cases the law enforcement agencies were so compromised that they could not be relied upon to take effective action to end this exploitation. BBA decided to try a different approach, starting with a grassroots movement in one of the States that was worst affected by trafficking. This began with a process of demonstrations and targeted approaches to relevant government officials. Deciding to escalate matters, BBA approached the high court and managed to get an order for the release of the trafficked children held at the services. The high court went a step further and issued a judgement calling for new legislation on child labour in circuses and against trafficking for slavery more generally. One key part of this was the expansion and clarification of what could be considered trafficking, allowing for enforcement of the law against activities that had previously been beyond the law's scope.

In 2011, after years of work, trafficking was finally given a clear definition across the country in a Supreme Court directive. Child labour was also unambiguously outlawed in circuses - this was made one of the areas in which, under Indian law, children are forbidden to work. The government was also directed to establish a new child protection institution - an important commitment and one that has not always been honoured. The definition the Supreme Court chose to use was in fact drawn from the UN Convention on Transnational Organised Crime, specifically the Protocol on the Smuggling of Migrants. This had a further effect on pushing the government towards ratifying the Convention as a result of its relevance to national law - a great example of how a single issue can be leveraged towards wider legal change.

Part 5: Next steps

Since organisations are different, their needs are also different. The different organisational structures mean that the support and work required from CRIN will differ from one organisation to another. Below are a few commitments which CRIN and the workshop participants could aspire to:

I. What can CRIN do to encourage and support legal (and other forms of) advocacy

- **Widely disseminate the following CRIN resources** (which can help further legal advocacy initiatives):
 - A guide to strategic litigation aimed at legal and non-legal NGO staff which can be adapted to local settings and procedures.
 - An e-mail list -“CRINmail”- on children's rights in court, which also covers examples of strategic litigation. You can subscribe to this list by clicking on this link: <http://www.crin.org/email/subscribe.asp>
 - Disseminate the guide explaining how to use UN and regional human rights mechanisms to pursue children's rights advocacy.
 - CRC in Court: a searchable database of examples of how the CRC has been used by high-level courts in all regions. Case summaries include CRIN's assessment of whether the decision is consistent with the CRC and why.
 - The Children's Rights Wiki, which brings together recommendations made by UN and regional human rights mechanisms, decisions by national courts and advocacy work carried out by national child rights advocates in one place. Each country page also includes a national law section, including a general overview of the country's legal system, the status of the CRC in national law, provisions for children's rights in the Constitution, a sense of relevant legislation / case law, a guide on how to conduct detailed legal research, and an analysis of the country's legal compliance with the CRC as assessed by the Committee on the Rights of the Child.
- **Other support for organisations includes:** providing toolkits on specific issues, such as child-friendly justice and ending the inhuman sentencing of children; hosting campaigns on the CRIN website, and providing news coverage of national advocacy efforts.
- **Follow-up with the participants with regard to the legal advocacy plans started at the workshop:** Continue to offer support to any initiative which includes pursuing a cause through legal channels.
- **Work with participants to highlight their work, from initiation through to successful outcome:** One such example could be where the participant organisation has effectively gathered evidence to bring a case or issue to the policy or lawmakers' notice. CRIN could then help advance this cause in two ways: a public approach, by highlighting the issue on the website and social media, and through e-mail circulars; and privately, if feasible, by putting the organisation in touch with key UN or regional agencies or contacts or indeed other influential human rights networks. Furthermore, if an alternative report has been submitted to the UN, this could feature in the country pages of the CRIN Wiki.
- **Develop a specific legal toolkit:** through the results and outcomes of this workshop and future workshops, provide participants with detailed guidance on how to challenge a violation of child rights through legal channels.
- **Cross-regional collaborative approach to working on common issues.**

II. What participants can do to strengthen commitment to addressing violations

- **Several organisations expressed a need to learn from other organisations' advocacy work:** One way to do this would be to work with CRIN to develop a regional group for regular updates of legal actions in the South Asia region. Identify and disseminate best practices.
- **Networking:** Participant organisations have access to impressive networks working on similar issues in the South Asia region. They are also part of many international networks with the contacts, resources and information needed to pursue advocacy campaigns at all levels. Members could, through the CRIN network, effectively engage with each other in their countries to strengthen advocacy.
- **Explore how to continue to effectively engage with SAARC** (South Asian Association for Regional Co-operation) and explore further opportunities with this regional mechanism, specifically, the sub-branches: SAARCLAW (South Asian Association for Regional Co-operation in Law), SAIEVAC (South Asia Initiative to End Violence Against Children). SAARC

works on some of the same thematic areas covered in the workshop session on persistent violations e.g. harmful practices (specifically, early child marriage), child labour, trafficking, and corporal punishment. The India participant group believed that there could be closer collaboration between all the country groups in relation to the SAARC protocol to include all forms of trafficking (currently it is only confined to trafficking for sexual exploitation).

- **As CRIN does not have local expertise, we would like to invite participants to help us identify resources for advocates in your country:** One way to do this would be to send CRIN specific resources which focus on the ongoing violations in your country e.g. how is it being addressed at the legal or policy level? What could CRIN do to help achieve a successful outcome e.g. targeted dissemination on an issue / legislation being debated.
- **Contribute to CRIN material:** such as the country Wiki pages, or clarify or amend any points in the legal status of the child briefings or other resources.
- **Use CRIN toolkits more pro-actively.**
- **Take advantage of the CRIN website:** There is a page on the CRIN website which focuses on the Special Procedures' planned visits (thematic and country). Use this website page to note when a visit might be occurring in your country, and use the Special Procedure visit as a platform to lobby your government / start gathering data and evidence to support a case or issue. These visits are also highlighted in the monthly UN CRINmails.
- **Work towards developing a regional human rights instrument:** South Asian countries have signed many conventions which aim to protect the welfare of the child. However, there has been no regional agreement that specifically focuses on human rights and fundamental freedoms. A regional instrument would be regarded as an appropriate complement to the universal human rights instruments of the United Nations. Such regional human rights mechanisms are already established in the Americas, Europe, Africa and most recently the Arab States: the last major geographic area, therefore, without its own mechanism is the South Asian region. As constituents of countries which are members of SAARC, organisations could work – with national governments, regional networks, CRIN and partner organisations - to improve this regional body's commitment to human rights.

Part 6: Annexes

Annex 1: List of participants

Annex 2: Afghanistan country presentation

Annex 3: Bangladesh country presentation

Annex 4: India country presentation notes

Annex 5: Nepal country presentation

Annex 6: Pakistan country presentation