Submission before the Meta Oversight Board

This brief submission holds that, in accordance with international human rights standards, the Meta Oversight Board should require Meta to keep online the bundle of videos that show teachers hitting children in school settings in India and France. This is because in such circumstances it is both appropriate and imperative for social media companies to allow content showing children being abused, in light of both the human right to freedom of expression and the human rights principle to respect the best interest of the child.

The submission is primarily based on [UN’s World Report on Violence Against Children](https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/document_files/world_report_on_violence_against_children.pdf) and is prepared in my personal capacity.

Conformity with the Convention on the Right of the Child (CRC) requires states to protect the child against “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” and from “cruel, inhuman or degrading treatment or punishment” (article 37).

Article 28 of the CRC recognises “the right of the child to education … with a view to achieving this right progressively and on the basis of equal opportunity.”

In 2001, the Committee on the Rights of the Child issued General Comment No. 1 on the aims of education (CRC/GC/2001/1). General Comment No. 1 states that: “…Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child, enables the child to express his or her views freely…and to participate in school life. Education must also be provided in a way that respects the strict limits on discipline reflected in article 28(2) and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline”.

Thus, international human rights law makes clear that hitting children in school settings by teachers is forbidden. Since the UN General Assembly adopted the CRC in 1989, a substantial number of countries have taken steps to ban corporal punishment in schools, even though they have often been lax in enforcing their laws. High-level courts in many regions and countries including the Delhi Hight Court in 2000 have condemned corporal punishment in schools and required its prohibition. However, underenforcement remains a serious concern.

For effective enforcement to take place, effective reporting must take place. “The public image of violence in schools has been coloured by the media’s focus on extreme events, such as school shootings; the targeting of schools for attacks and mass kidnappings. However, such events are very rare. More common are forms of violence that go unreported and may be so tolerated and perhaps so actively condoned by the public and by official policy and law that they are not deemed worthy of study, discussion or debate.” Limiting depictions of child abuse may thus affect efforts to seek accountability for such abuse in violation of Article 28 of the CRC and Article 19 (on freedom of expression) of the International Covenant on Civil and Political Rights.

Social media companies, unlike states, are not direct signatories to the CRC or the ICCPR. However, the UN Guiding Principles on Business and Human Rights that Meta embraces require social media companies to respect international human rights.

Moreover, the use of technological tools such as blocking lists and filters to combat the dissemination of child abuse material might lead to disproportionate restrictions to freedom of expression. It is not clear if such tools were deployed in the present case but if so, their use should be subject to oversight and reevaluated considering awareness-raising in the public interest of avoiding violence against children in multiple contexts.

Finally, where freedom of expression clashes with the protection of a child’s personal data, regional human rights courts have confirmed that the child’s best interests should be “a primary consideration” ([N.Š. v. Croatia](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-204320%22]}), 2020, European Court of Human Rights). However, this does not mean that the child’s plausible intrusion of privacy automatically and absolutely outweighs any conflicting interests, such as in the present case – the public’s right to know about child abuse.