



Convention on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

Optional Protocol on the sale of children, child prostitution and child pornography

List of issues concerning additional and updated information related to the consideration of the initial report of Nepal (CRC/C/OPSC/NPL/1)

Addendum

Written replies of Nepal*

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Reply to the issues raised in paragraph 1(a), (b) and (c) of the list of issues (CRC/C/OPSC/NPL/Q/1)

Situation of trafficking in persons in Nepal

1. The National Human Rights Commission (NHRC) has received 39 complaints of disappearance and abduction during July 2009 to June 2010. The total number of complaints received during July 2008 to June 2009 was 112 and during July 2007 to June 2008 the number was 254. Moreover, during 2009 to 2010, a total of 1,606 women and children were intercepted from different boarder points; 207 women and children were rescued from sexual and labour exploitation within the country; 112 women were repatriated from India and the Gulf countries; 365 women and children were provided rehabilitation services; and 2,917 complaints were received for the missing women and children in Nepal.¹

Missing children

2. In the Fiscal Year (FY) 2009/10 as many as 2,186 children were reported missing. Of them, 52 per cent were boys and 48 per cent girls. Nearly one third of the reported missing children were aged between 14-16 years.²

Reported cases of trafficking

3. The following table provides year-wise update to the reported cases of trafficking (*Reference to paragraph 69 of initial report (CRC/C/OPSC/NPL/1)*).

Table 1

Reported cases (with police) of trafficking

SN	Year (Fiscal Year AD/BS)	No. of Trafficking Cases Reported	Trafficking Survivors			Persons Accused of Trafficking		
			Female	Male	Total	Female	Male	Total
1.	2007/08 (2064/65 BS)	123	120	25	145	114	56	170
2.	2008/09 (2065/66 BS)	139	179	18	197	143	58	201
3.	2009/10 (2066/67 BS)	161	182	11	193	171	63	234
4.	2010/11 (2067/68 BS)	183	N/a	N/a	N/a	N/a	N/a	N/a

Source: Women and Children Service Directorate, Nepal Police, 2011 and Trafficking in Persons Especially on Women and Children in Nepal, National Report 2009-2010, Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), NHRC, p.13

4. The Office of the Attorney General filed and pleaded in 27 cases of human trafficking in FY 2010/11 and 39 cases in FY 2009/10. Of them, 30 cases have been decided by the Supreme Court and 36 cases are under consideration. Of the decided cases, in six cases the accused were convicted.³ Appellate Attorney's Offices filed and pleaded in 86 cases of human trafficking in FY 2010/11 and 55 cases in FY 2009/10. Of them, 90

¹ Trafficking in Persons Especially on Women and Children in Nepal, National Report 2009-2010, Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), NHRC, p.11.

² Ibid., p.19.

³ Annual Report of the Attorney General, FY 2010/11, p.30

cases have been decided by courts. Of the decided cases, in 43 cases the accused were convicted.⁴ Likewise, the District Attorney's Offices filed a total of 508 cases of human trafficking in the courts (in which 153 women and 52 children were appeared victimized). The preliminary investigation revealed that five children were found involved in crime. Likewise, 106 women were also found involved in human trafficking cases⁵. The following table presents cases (of human trafficking) filed in the courts as well as the number of cases decided and the number of cases under consideration in respective courts.⁶

Table 2
Cases filed in the courts

Cases	Office of the Attorney General						Appellate Attorney's Office						District Attorney's Office					
	Decided						decided						decided					
	i	ii	iii	iv	v	vi	i	ii	Iii	Iv	v	vi	i	ii	iii	iv	v	vi
Trafficking	66	6	2	22	30	36	141	43	47	0	90	51	301	97	59	1	157	144

(Notes: (i)= case filed, (ii)= accused convicted, (iii) (accused) freed,(iv) others,(v) total and (vi) number of cases under consideration of the court)

Child survivors of trafficking

5. The following table provides data on child survivors of trafficking received from the Women and Children Service Directorate of Nepal Police and the Office of the Attorney General:

Table-3:
Recorded cases of child trafficking survivors

Year	As per the Record of the Office of Attorney General		As per the Record of the Women and Children Service Directorate of Nepal Police	
	Number	% out of total survivors	Number	% out of total survivors
2007/2008	24	12.5	35	24.1
2008/2009	6	4.3	87	44.2
2009/2010	45	16.0	63	32.6

Source: Trafficking in Persons Especially on Women and Children in Nepal, National Report 2009-2010, Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), NHRC, p.18

Sexual violence against children

6. A total of 160 cases of sexual exploitation and abuse of children were reported in 2009. A total of 172 children (167 girls and 5 boys) were reportedly victimized. Out of 160 cases, only 87 cases were filed in the court (of them, 25 cases have been decided by the court and the remaining 62 cases are *sub judice*).

⁴ Ibid., p.47.

⁵ Annual Report of the Attorney General, FY 2010/11, p. 66.

⁶ Ibid., pp.10-11.

7. The Police Office is authorized to take up the cases, carry out investigations and submit them to the Government Attorney's office for prosecution.

Reply to the issues raised in paragraph 2 of the list of issues

8. The Council of Ministers has endorsed the draft bill on Children's Act, 2068 (2012) submitted by the Ministry of Women, Children and Social Welfare (MoWCSW). The draft bill will replace the Children's Act 1992. The Government of Nepal (GoN) is in the process of forwarding it to the Legislature-Parliament for its consideration. The draft bill defines the age of children as below 18 years which is compatible with the Convention on the Rights of the Child and its Optional Protocols.

9. The draft bill on Children's Act (2012) has incorporated various rights of the children. They include--rights to live a dignified life; rights to a name, nationality and identity; rights against discrimination; rights to live with parents and meet with them (in case of a child is separated with his or her parents); rights to protection; rights to express views; rights to freedom of expression and rights to information; rights to form Children's Club, Groups or Association; rights to privacy; rights of the children with disabilities; rights to health, accessing health services and social security; rights to recreation, play, and participate in cultural activities; and rights to education, among others.

10. In addition, legislation such as Human Trafficking (Control) Act, 2007 and Domestic Violence (Control and Punishment) Act, 2009 have defined children as human being under the age of 18 years and provided additional safeguards for protection of the rights of the children.

Reply to the issues raised in paragraph 3 of the list of issues

11. The Section 3 of Human Trafficking (Control) Act, 2007 criminalizes sale and trafficking of human being that covers trafficking of children, for any purpose and such act is penalized by the law. Furthermore, 'sale and trafficking' is defined in Section 4 of the Act as (i) selling and buying a person for any purpose; (ii) forcing someone into prostitution, with or without taking financial or benefit of any kind; (iii) removing or taking out human organ except subject to the provision of prevailing law; and (iv) engaging in prostitution. Likewise, Section 15 (1.b) of National Broadcasting Act, 1993 prohibits broadcasting of advertisement of pornographic materials and materials of similar nature through public media. Any act against this provision is punishable with one year imprisonment and a fine of NRs 10,000 (*Reference is made to paragraphs 181-184 of the initial report (CRC/C/OPSC/NPL/1)*).

12. The draft bill on Children's Act (2012) has incorporated provisions, in a separate chapter, for the protection of children against violence and sexual abuse. The definition of 'child sexual abuse' covers—engaging a child in real or stimulated pornographic materials and pictures; stimulating a child for sexual activities by means of words, actions and behaviours; engaging a child in sexual activities; and sexual exploitation of a child including involving him or her in prostitution and pornography. The draft bill has made such offences punishable.

Reply to the issues raised in paragraph 4 of the list of issues

Revision of the National Plan of Action for Children

13. The GoN conducted a mid-term review of National Plan of Action (NPA) for Children 2004/05 to 2014/15 in 2010 by inviting an independent team of experts and with

technical support of UNICEF Nepal. The review team traced out some concrete results and made some recommendations⁷ for the remaining period. The GoN has finalized the process of revising the NPA for Children and has submitted it to the Council of Ministers for its approval.

14. The NPA for Children has incorporated strategic plans under different thematic areas including promotion of the rights of the children, health, education, protection, and HIV and AIDS. The protection theme covers issues concerning protection of children from abuse, exploitation and violence and the following objectives have been set to address them:

- To protect children from all forms of sexual abuse and exploitation, sale and abduction by improving the existing laws, implementation of the legal provisions and raising awareness targeting the concerned groups;
- To eliminate traditional harmful practices that pushes women and girls into sexual exploitation;
- To ensure security and social protection of children who are rescued from sale and trafficking and from the situation of sexual exploitation by providing relevant services and support for their social rehabilitation; and
- To promote helpline/hotline like 'Save our Soul (SOS)' to provide emergency support to the children in need of protection and security.

15. The major activities (of the revised NPA for Children) include:

- Effective implementation of policies to combat the sale of children and child trafficking considering it as a severe crime by 2015;
- Provision of care and treatment to the victimized children and assurance of their rehabilitation by providing them education and skills development opportunities as well as by establishing Revolving Fund;
- Raising of awareness in the community against the sale of children and trafficking;
- Establishment of national, regional and international networks for collaborative action against the sale of children and trafficking; and
- Activation of the process of tracing the missing children by expanding child helpline and 'Missing Child Alert' as a regional effort in South Asia by 2012.

16. The budget estimate for implementation of the activities under the revised NPA for Children is provided in Annex-1 of the present document.

Revision of the National Plan of Action against Trafficking in Children and Women for Sexual and Labour Exploitation

17. The MoWCSW has completed the process of reviewing of NPA against Trafficking in Children and Women for Sexual and Labour Exploitation, in close collaboration with development partners and key stakeholders. The revised NPA has been approved by the Council of Ministers.

⁷ The Review Team organized consultations with the representatives of Child Clubs and its Networks; working children; actors and stakeholders from different levels; concerned Ministries, policy makers and child rights professionals; and development partners (including the United Nations agencies, INGOs and international agencies). Based on these consultations, the review team developed its recommendations.

18. The NPA has been formulated to control crimes related to human trafficking through effective implementation of Nepal's obligation to the international human rights instruments including Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child and the provisions of Human Trafficking (Control) Act, 2007 and its Regulation, 2008.

19. In the process of revising the NPA, the MoWCSW organized consultations in five development regions with concerned government agencies, NGOs and experts. The revised NPA, which would be for a period of 10 years, has incorporated the outcomes of such discussions, interactions and suggestions. The revised NPA has incorporated the following objectives:

- To adopt measures to control human trafficking within and across the country by having wider definition;
- To strengthen the mechanisms and structures that are responsible for effective prevention of human trafficking;
- To enable the capacity of concerned agencies mandated to control human trafficking and support the organizations working to combat human trafficking;
- To implement activities for family care and support and social protection targeting the most marginalized and deprived communities;
- To ensure coordination, support and collaboration among the concerned agencies to address human trafficking as per the international and regional commitments expressed by the country;
- To ensure access to justice by eliminating impunity by enforcing criminal justice system effectively and through applying appropriate legal processes to control human trafficking.

Revised National Master Plan on Child Labour

20. The Ministry of Labour and Transport Management (MoLTM), in collaboration with International Labour Organization (ILO), reviewed and updated the National Master Plan on Child Labour in 2010 and has set a new target to eliminate worst forms of child labour by 2016 and other forms by 2020. The Master Plan has been harmonized with other NPA, in particular with the NPA for Children, NPA against Trafficking in Children and Women for Sexual and Labour Exploitation, and NPA against HIV and AIDS.

21. The budget allocation system of GoN is not solely based on the NPAs. However, the estimated budget in the NPAs provides a base for the Government to allocate budget for its periodic and annual plans.

Reply to the issues raised in paragraph 5 of the list of issues

22. The Central Child Welfare Board (CCWB), a statutory body created by the Children's Act, 1992, is mandated with 'the overall responsibility of ensuring realization of the rights of children of Nepal. While fulfilling its mandated roles, CCWB works in collaboration and coordination with the government bodies, development partners and civil society organizations to meet the State's obligations towards children's rights progressively as per the Convention standard. This is further ensured by the membership in the board of CCWB, where Ministry of Women, Children and Social Welfare; Ministry of Education; Ministry of Health and Population; National Planning Commission; and Department for Women and Children are represented as members. The board of CCWB is chaired by Minister of the MoWCSW. The CCWB has District Child Welfare Board (DCWB) as its district chapter in all 75 districts (*Reference is made to paragraph 99 of the initial report*

(CRC/C/OPSC/NPL/1)). DCWB in the district is mandated to coordinate with the government line agencies as well as development partners and civil society organizations to promote rights of the children and liaison with district and community based child protection mechanisms. The CCWB at the centre and DCWBs at the districts are collecting data regarding realization of children's rights as well as violations of children's rights and are publishing annual reports on the situation of children.

23. The Government has taken an executive decision to expand the scope of Women Development Department (WDD) under the MoWCSW by changing its name as 'Department for Women and Children (DWC)' and provided additional responsibility in promotion and protection of children's rights. Accordingly, the 'Women Development Office (WDO)' in the district is now named as 'Office for Women and Children' and entrusted with the responsibilities of looking after children's issues and implementing programmes and projects in the district for children's wellbeing and empowerment. The Office for Women and Children and the DCWB are coordinating among them and are complimenting to each others' functions. Though they might look parallel institutions, one is more focused on implementation of the programmes and projects to fulfill children's rights recognized under the existing legislation and the other is responsible for coordinating among actors and stakeholders, monitoring the situation of children and identify gaps, and recommend for policy formulation.

24. The MoWCSW has initiated internal discussions on re-defining roles and functions of the Department for Women and Children and the Women and Children Offices in the districts with the objectives of effectively incorporating child protection into their mandates and programmes.

Reply to the issues raised in paragraph 6 of the list of issues

25. The Government of Nepal has taken several strategies for prevention of offences of child trafficking, child prostitution and pornography. They include-(i) formulation of law and ensuring law enforcement measures; (ii) developing community based institutional mechanisms (i.e. Village Child Protection Committees-VCPC) and supporting community based structures (i.e. Para Legal Committees-PLC, Women's Groups and Children's Clubs); (iii) expanding educational opportunities to girl children by providing scholarships; (iv) vocational training and income generation opportunities to adolescent girls and their families; (v) awareness-raising among the targeted groups; and (vi) introducing and expanding social protection plans targeting the most vulnerable group and families.

26. The working policy of the Three Year Plan Approach Paper (2010/11 to 2012/13) aims to:

(a) Expand effective targeted programmes in all districts in order to rescue, rehabilitate and protect the vulnerable or risk-prone children;

(b) Adopt a policy to protect children at risk and establish child protection centres at regional level.

27. A total of 42 incidents of discrimination (victimizing 24 girls and 18 boys) were reported in 2010. Likewise, a total 57 incidents of violence and torture (victimizing 22 girls and 35 boys) were reported in the same year. A total 12 cases of caste based discrimination were recorded and reported in 2010 and 12 children (7 girls and 5 boys) were victimized.⁸

⁸ The State of Children of Nepal 2010, CCWB, pp.34 and.21.

28. The Women and Children Service Center (WCSC) as well as Community Police Centers under Nepal Police run programs to educate masses on the violence against children. The WCSCs in all districts are providing support to the children that are victim of child marriage, forced marriages, trafficking, child labour, child sexual abuse, domestic violence and other sorts of harms. The WCSCs are working in coordination with district level line agencies, child focused organizations and local NGOs to provide referral services to victimized children of different forms of rights violations. Many development partners are supporting this initiative of Nepal Police.

29. Domestic Violence (Offence and Punishment) Act, 2009 and its Regulation, 2009 have specific measures to control violence occurring within the family and for matters connected therewith, make such violence punishable, and provide protection to the victims of violence.

30. The GoN has framed Gender Based Violence Elimination (Operation) Rules, 2009 to offer assistance to the victimized women and girls. Moreover, it has forwarded a draft bill on Sexual Harassment in Workplace to the Legislature-Parliament for its consideration.⁹ It has also framed a "Guideline for Controlling Sexual Harassment against Working Women" to protect female workers employed in 1,200 Cabin and Dance Restaurant and Massage Parlors (*Reference is made to paragraph 77 of the initial report (CRC/C/OPSC/NPL/1)*).

31. The GoN had declared 2010 as the year for ending discrimination and violence against women and children. A national plan of action has been prepared to prevent and respond to different forms of violence committed against children and women. A nation-wide campaign was run to raise awareness among the general masses on the issue. The GoN has established 'Gender Empowerment Coordination Unit' under the Office of the Prime Minister and Council of Ministers (OPMCM) and an inter-Ministerial 'Gender Empowerment Coordination Committee' has been formed under the leadership of the Chief Secretary. Likewise, Women Empowerment District Coordination Committees have been formed under the leadership of Chief District Officer (CDO) in all 75 districts.

32. The GoN has implemented programmes including social protection allowances and scholarships for the section of the society who suffered from caste based discrimination in the past. It has established institutional mechanisms at central and district levels to address the issues related to caste based discrimination and promoting rights of *Dalit* community. Many NGOs are implementing programmes for eradicating caste based discrimination at the community level. Likewise, several community-based groups (i.e. Women's Groups and Children's Clubs) are also raising awareness and implementing programmes to address the issue in the community.

33. The GoN has established 1,051 Village Child Protection and Promotion Sub-Committees (previously known as VCPC) and 46 District Child Protection and Promotion Sub-Committees (previously known as District Child Protection Committee-DCPC)¹⁰ with the responsibility of promoting child rights and protecting children against any sorts of harms. Likewise, it has been supporting a network of more than 979 PLCs established and functional in 59 districts and communities. And, efforts are currently underway to expand them to the remaining 16 districts. The PLCs are engaged in raising awareness on issues concerning women and children's rights; provide immediate and front line support to victims and facilitate the referral of cases to relevant authority at the district. The PLCs receive approximately 10,000 cases per year related to different forms of violence

⁹ Economic Survey, FY 2010/11, Ministry of Finance, p.229.

¹⁰ The State of Children of Nepal 2011, CCWB, p.140.

committed against women and children.¹¹ The community-based child protection mechanisms are also supporting, among others, to report the cases; assist the victimized children and families to lodging complaints; assist in rehabilitation process; and claiming rights on behalf of victimized children and families.

34. One of the working policies of the Three Year Plan 2010-2013 is to promote the concept of child friendly local governance. The working policy states—"(i) Emphasis will be given to child friendly local governance while promoting the concept of child friendly schools, services, local government and communities, and (ii) Programmes will be implemented with a view to fulfilling the commitments made by the government towards the Convention on the Rights of the Child and its Optional Protocols as well as other international and regional instruments".

35. The Ministry of Local Development (MoLD) has been implementing Child Friendly Local Governance (CFLG) programmes that incorporate components of child survival, child development, child protection and meaningful participation of children. The CFLG National Strategic Framework and Guidelines have been adopted by the GoN and efforts are underway to declare 'Child Friendly Village Development Committees (VDCs), Municipalities and Districts' by attaining the minimum indicators set. The CFLG initiative aims at handing over responsibilities for promotion of the rights of the child and protection of children to Local Bodies (i.e. VDCs, Municipalities and District Development Committees-DDC) as these bodies are close to the children, their families and communities. The GoN has adopted a policy of earmarking at least 10 per cent out of the 'block grant' (capital grant) for funding projects for children (promotion of children's rights, empowering children and ensuring child protection). It has authorized VDCs to allocate up to 25 per cent of their capital grants for programmes that directly support the fulfillment of children's rights and empower children, women and socially excluded groups and of the criteria set by CFLG National Strategic Framework and Guidelines.

Reply to the issues raised in paragraph 7 of the list of issues

36. The GoN has considered a twofold policy of providing care and welfare services to children deprived of family environment (i) improving the standards of institutions (Childcare Homes), and (ii) executing family and community based alternative care plans including Foster Care. The MoWCSW has formulated the Comprehensive Standard for Operation and Management of Residential Child Care Homes and the Standard has been approved by the Council of Ministers. As mandated bodies, the CCWB at the central level and DCWB in the district have been conducting annual monitoring and reviewing of the Child Care Homes across the country to ensure better care and protection of children.

37. The Three Year Plan 2010-2013 has adopted the strategies of promoting alternative models of care for children without parental care and children who are at risk.¹² The GoN has initiated a process of formulating policies for promoting alternative care models including Kinship Care, family preservation and support schemes, Foster Care and Sponsorship as well as domestic adoption and other forms of community based care models that are appropriate in the community context. Currently many new services in Nepal are being piloted to provide alternative care to children without parental care. For example Peer Group Homes, Independent Living Arrangements, Foster Care, Kinship Care, and Day Care Centers have been successfully piloted. Many of these services are run by child focused

¹¹ UNICEF Nepal, 2011.

¹² The plan of formulating policy for alternative care models is being continued from the Three Year Interim Plan period 2007-2010.

organizations by mobilizing resources internally and externally. The lessons learned from these efforts have been gathered to feed into the process of policy formulation and defining an overall goal for creating positive changes for ensuring the best interest of children who are in need of care and protection.

38. The bill on Children's Act (2012) has incorporated provisions regarding Family Support, Foster Care and Sponsorship and has outlined basic procedures to determine the best care option for the child who is in need of alternative care (*Section 50 of the draft bill*). Besides, there has been an increase in domestic adoption cases in response to the measures taken by the government to reimburse the fee to be paid in the Land Revenue Office during the time of registration of the child as per the existing legislation.

39. The GoN has adopted rules and procedures concerning adoption of Nepali children. These include (i) Terms and Conditions and Process for granting approval for Adoption (First Amendment), 2009, (ii) Inter-Country Adoption Management Committee (Formation) Order, 2010, and (iii) Terms and Procedures for Adoption of Nepalese Children by Foreign Citizen (Second Amendment), 2010. The GoN has framed rules for Enlisting of Foreign Agencies in the MoWCSW for the purpose of adoption. As such, the GoN has made changes in existing structures to ensure transparency in the adoption process and safeguard best interest of children to be sent for international adoption.¹³

40. The Inter-Country Adoption Management Committee has been established under the MoWCSW as the Central Authority for planning, and management of inter-country adoption. The Committee consists of nine members including a chairperson appointed by the GoN, and Joint Secretaries of MoWCSW, Ministry Home Affairs (MoHA), Ministry of Law and Justice (MoLJ), and Ministry of Foreign Affairs (MoFA) as members. A Child Specialist and a Child Rights Worker appointed by the MoWCSW and a representative of Child NGO Federation of Nepal also serve as members of the Committee whereas the Under Secretary (Law) of the MoWCSW is designated as Member-Secretary.¹⁴ The Committee is mandated to¹⁵ (i) formulate policy for inter-country adoption and submit them to the MoWCSW, (ii) develop longer term, short term and annual plan of action, (iii) investigate the cases of children for inter country adoption and make recommendation to the MoWCSW, (iv) gather necessary information of the person intending to adopt Nepali children, (v) monitor the Child Care Homes, and (vi) coordinate among concerned agencies and organizations. Likewise, the Committee is responsible to conduct studies and researches as well as to ensure protection of children from any sort of harms, abuses, exploitation, trafficking and abduction in the process of inter-country adoption.

41. A bill on Civil Code has been forwarded to the Legislature-Parliament. It contains detail provisions on adoption in general and inter-country adoption in particular. These reforms in the inter-country adoption process are aimed at making the process more rigorous and ensuring the best interest of children.

Reply to the issues raised in paragraph 8 of the list of issues

42. The Electronic Transactions Act, 2006 was enacted on 8 December 2006. The Act has two main aims (i) to make legal provisions for authentication and regularization of recognition, validity, integrity and reliability of generation, production, processing, storage, communication and transmission system of electronic records by making the transactions to

¹³ As articulated in the Three Year Interim Plan 2007-2010.

¹⁴ Rule number 3 of Inter-country Adoption Management Committee (Formation) Order 2010.

¹⁵ Rule number 4 of Inter-country Adoption Management Committee (Formation) Order 2010 explains roles, duties and rights of the Committee.

be carried out by means of electronic data exchange or by any other means of electronic communications, reliable and secured; and (ii) to control the acts of unauthorized use of electronic records or of making alteration in such records through an illegal manner.

43. Section 47 of the Act, prohibits publication of illegal materials in electronic form. It provides that materials which are prohibited to publish or display by the prevailing legislation or which may be contrary to the public morality or decent behaviour or any types of materials which may spread hate or jealousy against anyone or which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes and communities' shall not be published. 'If any person publishes or displays any material in the electronic media including computer and internet which are prohibited to publish or display by the prevailing law or which may be contrary to the public morality or decency is liable to the punishment with the fine not exceeding one hundred thousand rupees or with the imprisonment not exceeding five years or with the both.'

44. The Electronic Transactions Act, 2006 does not specifically mention 'child pornography' or 'viewing and downloading of pornographic materials involving children' but has prohibited such acts mentioning them as 'illegal materials' and/or 'acts contrary to the public morality or decent behavior'.

Reply to the issues raised in paragraph 9 of the list of issues

45. Section 12 of the Human Trafficking (Control) Act, 2007 has explicitly mentioned that it is the responsibility of the GoN to rescue its citizen sold and/or trafficked to foreign land. The provision states that the GoN is to manage for rescue of any Nepali citizen sold in the foreign land.

46. The GoN is mobilizing its Embassy in India for immediate rescue of Nepali citizen who are trafficked to India in case any information (and/or complaint) is received. Moreover, the Embassy is providing necessary cooperation to Nepali and Indian organizations who are engaged in rescue and returning of Nepali citizens trafficked to India. The GoN has provided separate budget to the Embassy to establish an emergency support fund to serve the trafficked person (i.e. NRs 500,000 was given to the Embassy in FY 2011/012).

Reply to the issues raised in paragraph 10 of the list of issues

47. *Deuki: Deuki Pratha (a traditional system in west of Nepal offering girl to a temple)* has been abolished in Nepal by Children's Act, 1992. This practice is no longer in existence.

48. *Jhuma:* Traditionally, 'the second son is sent to the Monastery to be a Monk and second daughter to be a Nun'¹⁶ from Sherpa and Tibetan Buddhist families. The traditional system of sending the second daughter to be Nun is generally understood as *Jhuma*. The GoN has initiated a process of conducting situational analysis to find out the situation of *Jhuma* and develop intervention strategies accordingly.

49. *Kamlari:* The GoN has been successful in rehabilitating 27,000 households of freed *Kamaiya* and their children including *Kamlari* in five districts of Mid and Far-Western Terai till the end of 2010.

¹⁶ Sherpa, B(ST), 2011, The Sherpa Buddhist Nuns: Sociology of Happiness in Sherpa Buddhism, Rajykranti Editor and Sherpa Research Centre, with the support from National Foundation for Development of Indigenous Nationalities, Lalitpur, Nepal, p.69.

50. The Supreme Court of Nepal had issued a directive order on 10 September 2006 to the Government to formulate law to protect *Kamlari* from being ending up as domestic labour and being into exploitative situation; incorporate the principles and provisions of the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights into school level curricula; and formulate policy for social protection of *Kamlari* and other groups of children freed from the situation of labour exploitation. A Committee was constituted by Legislative Committee for Women, Children and Social Welfare to study the situation and the problems faced by freed *Kamaiya* and *Kamlari*. Upon completion of the study, an interaction programme was organized by the Legislative Committee in coordination with various Ministries, Departments, Committees, and Directorates on 14 May 2011 to discuss the findings and explore ways to implement the recommendations. A decision was taken to form an inter-ministerial Committee for developing intervention plan for rehabilitation of *Kamlari* under the chairpersonship of Executive Director of CCWB. The 15-member Committee consists of representatives from MoWCSW, Ministry of Education (MoE), Ministry of Health and Population (MoHP), Ministry of Land Reform and Management (MoLRM), Ministry of Local Development (MoLD), Ministry of Industries (MoI), Ministry of Labour and Transport Management (MoLTM), Ministry of Home Affairs (MoHP), Ministry of Agriculture and Cooperatives (MoAC), Ministry of Peace and Reconstruction (MoPR), National Women Commission (NWC), National Planning Commission (NPC) and Department of Women and Children. The CCWB hosts the secretariat of the Committee. The Committee has formed technical sub-committees where representatives from UN agencies, international agencies and civil society organization are invited as members. The sub-committees are working to formulate strategic plan for rehabilitation of *Kamlari*.¹⁷

51. The GoN provided NRs 120,000,000 in FY 2010/11 for empowerment of *Kamlari* (on average NRs 21,000 per person per year) and scholarship (NRs 15,000 per student per year for schooling with residential facilities).¹⁸ Many NGOs have joined hands to abolish *Kamlari* system in the five *Kamaiya* prone districts.¹⁹ A total 5,752 *Kamlari* have been rescued and rehabilitated in their communities.²⁰ The GoN has allocated NRs 150,000,000 in the FY 2011/12 for providing scholarship to freed *Kamlaries* from six districts namely Dang, Banke, Bardia, Kailali, Kanchanpur and Surkhet.

Reply to the issues raised in paragraph 11 of the list of issues

52. The reasons for purported under-reporting of cases could be due to fear of social stigmatization, importance attached by the society to chastity and faithfulness among girls and women; safeguarding the possibility of entering into marital life, and fear of undermining the social status of family; inadequate services to provide psychosocial, medical and legal support to the victimized children; inadequate level of awareness about the legal provisions; fear of re-victimization in the investigation system; and access and availability of rehabilitation services across the country. However, GoN has continued investing its efforts to ensure that legislations, policies and procedures are in place to facilitate the identification, reporting, referral, investigation, treatment and follow-up of cases of abuse, exploitation and violence against children (*Reference is made to paragraph 74 of the Initial Report (CRC/C/OPSC/NPL/1)*).

¹⁷ Reference is made to the State of Children of Nepal 2011, CCWB, pp110-111.

¹⁸ The Economic Survey, FY 2010/11, Ministry of Finance, p.184

¹⁹ Dang, Banke, Bardia, Kailali and Kanchanpur districts in Mid and Far Western Development Region.

²⁰ The State of Children of Nepal 2010, CCWB.

53. Out of Court settlement of serious crimes like trafficking is illegal. For any case formally registered and/or reported under the formal system as provided by the law, informal settlement outside the court is not possible.

54. Section 15 (3) of the Human Trafficking (Control) Act, 2007 incorporates provision of imposing additional twenty-five per cent of the punishment in case a person being assigned in public post commits the offence under this Act.

Reply to the issues raised in paragraph 12(a), (b) and (c) of the list of issues

55. As per the provision of Section 14 of the Human Trafficking (Control) Act, 2007, the GoN has established 'Rehabilitation Fund' for rescue, protection and rehabilitation²¹ of survivors of human trafficking. It has approved a Guideline for Operation and Management of the Rehabilitation Fund on 27 September 2011. As per Rule 17 of the Regulation (2008) under the Human Trafficking (Control) Act, 2007, the central level Rehabilitation Fund is being managed by the National Committee against Human Trafficking formed under Rule 3 of the Regulation 2008 under the chairpersonship of Secretary of the MoWCSW. Likewise, the National Committee can authorize the District Committee to be formed as per Rule 6 of the Regulation (under the chairpersonship of the Chief District Officer) to establish Rehabilitation Fund as per the necessity (Rule 17.2 of the Regulation). According to the MoWCSW, a total NRs 38, 660,000 has been collected in the central level Rehabilitation Fund (as of 27 February 2012).

56. The GoN has initiated a process of drafting 'Standard Operating Procedure (SOP)' and 'National Minimum Standard (NMS)' for the use of actors and stakeholders engaged in anti-trafficking movement in Nepal.

57. The Juvenile Justice Coordination Committee²² has developed a comprehensive four year plan on juvenile justice and has elaborated the process of maintaining privacy and confidentiality of juveniles, including child witnesses. Likewise, the Human Trafficking (Control) Act, 2007 incorporates the provisions of protection of witnesses. The National Judicial Academy (NJA) has also formulated a model 'Guidelines for Protection of Witness and Victim in Judicial Proceedings'. A witness protection bill is being drafted.

Reply to the issues raised in paragraph 13 of the list of issues

Assistance provided for recovery and social reintegration

58. As per Section 13(2) of the Human Trafficking (Control) Act, 2007, the GoN has been providing financial and technical support to eight rehabilitation centres established by different organizations in eight districts namely Sindhupalchowk, Khathmandu, Jhapa, Parsa, Chitawan, Rupandehi, Banke and Kailali. It has provided a grant of NRs 18,042,492 to these rehabilitation centres during 2009-2011. Moreover, it has approved a guideline on 27 September 2011 for Operation and Management of the Rehabilitation Centers (as mentioned in Rule 4(1) of the Regulation (2008) of Human Trafficking (Control) Act, 2007). These centres have provided services to a total 807 rescued women and girls in 2009 to 2011 and 54 women and girls are still residing in the centres (as of February 2012). The following table provides detailed information:

²¹ As per the guideline, the fund could be utilized for providing services to the victims including (i) rescue, (ii) medical treatment, (iii) family reunification, (iv) legal remedies, (v) education and vocational training, (vi) seed money for income generation, and (vii) for providing shelter, food and clothing in the transit centres.

²² The Committee was formed according to Rule 22 of Juvenile Justice (Procedural) Rules, 2007.

Table-4
Rehabilitation centres and service provided to survivors

<i>Responsible organization for running rehabilitation centre</i>	<i>District</i>	<i>No. of people rehabilitated in 2010-11</i>	<i>No. of people in the centre in 2010 July</i>	<i>No. of people rescued in 2011-12</i>	<i>No. of people residing in the centres (as of February 2012)</i>
Maiti Nepal Transit Home, Bhairahawa	Rupandehi	177	5	55	9
Gramin Mahila Srijanshil Pariwar (Rural Women Creative Family)	Sindhupalchowk	0	0	41	1
Adarsha Nari Bikas Kendra (Ideal Women Development Centre)	Chitwan	12	8	27	5
ABC Nepal	Kathmandu	25	18	35	0
Saathi	Banke	50	12	22	12
Maiti Nepal Branch Office, Parsa	Parsa	28	9	28	0
Srijanshil Samaj (Creative Society)	Kailali	30	6	28	4
Maiti Nepal Branch Office, Jhapa	Jhapa	116	42	47	23
Total		438	86	283	54

Source: Ministry of Women, Children and Social Welfare

59. The GoN is implementing programmes on combating trafficking in persons in close collaboration with development partners. Such programmes aims at (a) strengthening protection services for survivors of trafficking in persons; (b) building capacity of judiciary and law enforcement agencies to effectively enforce legal measures and increase prosecution as per the provisions of the Human Trafficking (Control) Act, 2007 and (c) preventing trafficking by building awareness among groups that are vulnerable to sex and labour trafficking.

60. The MoWCSW and Department of Women and Children are implementing awareness raising, rescue and social re-integration programmes for the survivors of trafficking. Likewise, efforts are underway for prevention of children at-risk through mobilizing community based child protection mechanisms, particularly, PLCs, VCPC, Child Labour Monitoring Committees, Mother's Groups, and Children's Clubs.

Annex I

Budget Estimate in the Revised NPA for Children (in NRs, millions)

<i>Objectives</i>	<i>2005-07</i>	<i>2008-12</i>	<i>2013-15</i>	<i>2005-15</i>
Amendment of Law	5	10	5	20
Organizational Development	1000	4000	2000	7000
Health and HIV, AIDS	4000	13000	8000	25000
Education	9000	25000	18000	52000
Rehabilitation and Social Reintegration	1000	3500	1500	6000
Protection	1000	3000	2000	6000
Family and Community Development	2000	6000	3000	11000
Human Resource and Capacity Development	2000	6000	3000	11000
Advocacy and Awareness raising	500	1000	500	2000
Information Management System	200	1000	500	1700
Study and Research	200	600	300	1100
Others	500	1500	1000	3000
Total	21405	64610	29805	125820

Annex II

List of abbreviations

CCWB	Central Child Welfare Board
CDO	Chief District Officer
CFLG	Child Friendly Local Governance
CSOs	Civil Society Organizations
DCPC	District Child Protection Committee
DCWB	District Child Welfare Board
DDC	District Development Committees
DWC	Department for Women and Children
FY	Fiscal Year
GoN	Government of Nepal
ILO	International Labour Organization
MoAC	Ministry of Agriculture and Cooperatives
MoE	Ministry of Education
MoFA	Ministry of Foreign Affairs
MoHA	Ministry Home Affairs
MoHP	Ministry of Health and Population
MoI	Ministry of Industries
MoLD	Ministry of Local Development
MoLJ	Ministry of Law and Justice
MoLRM	Ministry of Land Reform and Management
MoLTM	Ministry of Labour and Transport Management
MoPR	Ministry of Peace and Reconstruction
MoWCSW	Ministry of Women, Children and Social Welfare
NGO	Non-governmental organization
NHRC	National Human Rights Commission
NJA	National Judicial Academy
NMS	National Minimum Standard
NPA	National Plan of Action
NPC	National Planning Commission
NWC	National Women Commission
OSRT	Office of the Special Rapporteur on Trafficking

in Women and Children

OPMCM	Office of Prime Minister and Council of Ministers
PLC	Para Legal Committees
SOP	Standard Operating Procedure
VCPC	Village Child Protection Committee
VDC	Village Development Committee
WCSC	Women and Children Service Center
WDO	Women Development Office
