

## Session 59 – Nepal

### *Recommendations made under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

*Prepared by Child Helpline International and Child Helpline Nepal – September 2011*

---

#### **Background:**

Child Helpline Nepal is operated by CWIN. The child helpline is available from can be reached by children in the entire country through a toll free short telephone number 1098. This telephone number is harmonised on a sub-regional basis (India, Bangladesh and Bhutan), ensuring access for children that have been trafficking in this region.

Child Helpline International and Child Helpline Nepal make the following recommendations to achieve full implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography by Nepal.

#### **Recommendation A**

The government of Nepal should ensure that the child helpline can assist to address and prevent child trafficking, child prostitution and child pornography. To this end the government should

- The government and donors should increase their commitment and support mechanisms like the Child Helpline Nepal 1098 so as to increase the ability for children and others concerned to report sexual abuse and exploitation cases and get support. Currently, the Child Helpline Nepal 1098 is the only child protection system in Nepal.
- Nepali society assumes that only girl children can be sexually abused/exploited while ‘A study on the sexual abuse of street boys in Kathmandu - 2010’ conducted by CWIN Nepal states that 46% of street boys have been sexually abused. Most sexual abuse and exploitation of boys in Nepal is conducted mostly by Nepali men not foreigners as is assumed. In addition, paedophiles mostly use boys for sexual relation but unfortunately existing laws do not address this issue. Sexual abuse of boys should be specifically mentioned in legislation.
- Break the taboo on the sexual abuse of boys. There should be proper dissemination of information and awareness raising amongst all stakeholders towards this goal.
- Ensure that legal procedures are dealt with timely and in a child sensitive manner. In many cases there is a loss of confidentiality. In 2009, a case was filed on behalf of a 13-year-old girl by CWIN against a rapist. The victim was asked to be present in an open bench in front of the rapist and his supporters. CWIN along with other organisations like the FWLD (Forum for Women, Law and Development, LACC (Legal Aid and Consultation Centre) had to meet with the Chief Justice of the Kathmandu District Court to bring this into notice).
- Ensure implementation of legislation on the use of child pornography, misuse of children’s photographs, images etc. Nepali law does not prohibit possession, procurement and attainment of child pornography, which is against any international norm.
- One of the manifestations of sale of children and trafficking is taking place in Nepal in the form of inter-country adoption. There are many inconsistencies in the available information of children. Many are made orphan on paper and are given for adoption without meeting norms and regulations. There's lot of corruption that goes in the process of inter-country adoption. Nepal needs to sign the Hague Convention without further delay and bring the whole procedure of inter-country adoptions into the system acceptable internationally to protect Nepali children being literally 'sold' in the name of adoption.
- Extend the time period within which cases of sexual exploitation and abuse can be brought to court. Currently, cases of sexual abuse and exploitation need to brought to court within a



Child Helpline International

35 day time period. This is too short as often, sexual abuse and exploitation against children comes to light only through behavioural problems.

### ***Recommendation B***

The government should make use of all means available to prevent the sale of children, child prostitution and child pornography, as well as address related issues to safe guard marginalised children and children at risk. To this end, the government should:

- There is ambiguity of age in various child related laws. It is necessary to bring uniformity in the age of children in every legal measure. For e.g., the UN CRC states children as persons under 18 yrs, while Nepali children's act state it as persons under 16
- The SAARC Convention on Combating and prevention of Trafficking in Women and Children for Prostitution-2002 has not yet been practically implemented. It should be implemented in its real sense/spirit.

### ***Recommendation C***

The government should take all steps necessary to combat and prevent child on line sexual exploitation, the spread through the internet of depictions of child pornography and raise awareness with all stakeholders (e.g. children, parents, educators and police). The government of Nepal should take all steps necessary to address and prevent this. To this end it should:

- Make available resources and funds to Child Helpline Nepal in ensuring that children are kept safe on line;
- Make use of all available information and standards to inform national policy on this issue, such as the International Telecommunication Union Global Guidelines for Policy makers on Child Online Protection;
- Cooperate with Child Helpline Nepal and other stakeholders in drafting national legislation on this issue.
- Raise awareness with all stakeholders, especially children, parents and educators.
- Cooperate with governments and police of other countries and with international bodies on this issue.
- The Nepali government should ensure the online protection of children as soon as possible through legal measures. Large numbers of children are sexual abused online with the revolution in electronic media. The Electronic Transaction Act is completely silent regarding children's issues and is not enacted. A separate cyber law for children's protection is desired or at least amendment in the existing Electronic act is absolutely necessary.
- Ensure a rights based approach. This has not been applied and implemented while dealing with different cases concerned with children like sale of children, prostitution, sexual abuse, exploitation, pornography etc. Legal measures must be clear and there must be provision of right based approach to be followed by the concerned while dealing with the cases related with the children.
- Cases of sale of children, child prostitution, child pornography, sexual abuse, exploitation etc. are being dealt by general court rather than Juvenile bench. This is against children's right to confidentiality. Legal provisions should ensure this right of children.

### ***If you wish further information please contact Child Helpline International:***

Johan Martens  
Advocacy Officer, Child Helpline International  
johan@childhelplineinternational.org  
Tel: + 31 (0)20 528 9625  
Fax: + 31 (0)20 638 7655  
[www.childhelplineinternational.org](http://www.childhelplineinternational.org)