

# **CHILD PROTECTION MAPPING AND ASSESSMENT SUMMARY REPORT**



**September, 2015**



**Government of Nepal  
Ministry of Women, Children and Social Welfare  
and  
Central Child Welfare Board**

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# Foreword

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Nepal's child protection system has been governed by a broad range of laws, rules and policies aimed at preventing and responding to all forms of violence, exploitation and abuse against children. The system includes social welfare, security and justice, labour, health and education sectors. It is operated at national, district, village, ward and community levels with wide-ranging formal and informal mechanisms and services.

Poverty, inequality, illiteracy, cultural rigidities, patriarchal mindset, political instability, and gender based violence are some of the reasons, which cause the frequent violation of children's rights. Many Nepalese orphan children belonging to vulnerable ultra poor house-holds are compelled to be separated from their families and are living in child care homes. Moreover, many other are at risk of being abandoned because of social and economic reasons. There are significant numbers of children, who are living on the streets engaging in the worst forms of child labour, while many others are living in Child Correction Homes.

Despite various efforts of the government in the form of programmatic, legal and policy level interventions in collaboration with various development partners, mistreatment, abuse and exploitation of children is still a widespread phenomenon in Nepal. An integrated and holistic approach, is, therefore, warranted to eliminate these practices from the country. Such approach is possible when robust child protection mechanism is in place. Towards that end, Child protection mapping and assessment has been done by the Ministry of Women, Children and Social Welfare (MoWCSW), Central Child Welfare Board (CCWB) with the technical support of development partners including UNICEF to highlight system-wide strengths, weaknesses and gaps in relation to international standards with the aim of guiding strategic actions to protect vulnerable children.

Some of the the specific objectives of the assessment and mapping are : to provide an overview of child protection issues in Nepal; to conduct a comprehensive review of legislation, rules, policies, action plans, procedures and budgets relevant to child protection; to take stock of statutory mandates, structures, human resources, financial resources, programmes and services of concerned sectors; to examine the protection role of informal actors, including community groups and their connection to the statutory child protection system; to summarize key findings and propose strategic recommendations for systematic approaches to prevent

harm and protect children against all forms of violence.

This Summary Report incorporates highlights drawn from Nepal's Child Protection System Mapping and Assessment Compendium (Volumes I-7). The Compendium is the reflection of the efforts of the MoWCSW, CCWB and Interagency Working Group member organizations, including: Save the Children, World Vision Nepal, Plan International, Terre des homes, World Education and UNICEF to assess the existing child protection system in the country and future initiatives that have to be taken.

The MoWCSW believes that the findings and recommendations of the mapping and assessment are very important for the government of Nepal to have future policy and programmatic interventions to ensure the protection of the rights of children. Moreover, they are expected to be highly beneficial to policy makers, planners and researchers. Some of the major recommendations in this regard are related to mainstreaming of child protection in constitutional reform , broad-ranging legislative reform processes, and national plans and budgets ; formulation of a multi-sector National Child Protection Operational Plan utilizing a sector wide approach to child protection that operationalizes existing laws, rules, policies, plans, standards, directives and guidelines in a coherent, integrated and streamlined manner; setting up of Child Protection Information Management System (CPIMS) to record harmonized child protection information across various sectors; and Strengthen existing inter-ministerial coordination mechanism administered by CCWB through upgrading its status to become National Child Rights Coordination and Monitoring Body.

The Ministry highly appreciates the efforts of all the agencies and persons involved in bringing out this publication. The Ministry is thankful to CCWB and Department of women and Children for their support and contribution from the very beginning of the mapping and assessment process. Thanks also goes to UNICEF, Save the Children, World Vision Nepal, Plan International, Terre des homes, and World Education for their all sorts of supports to make this report possible .The relentless efforts of Ms.Radhika Aryal, Division Chief, Women Empowerment and Child Development Division, Dr.Kiran Rupakhetee, Section Chief, Child Protection and Development Section and Ms. Sushila Paudel Dahal, Section Officer of the Same Section of the MoWCSW are truly acknowledged in this regard.

**Government of Nepal**  
**Ministry of Women, Children and Social Welfare**

# Preface

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Government of Nepal has been sensitive, to some extent, even prior to the ratification on the United Nations Convention on the Rights of the Child, 1989 (CRC). We can see the evidences of some child protection issues in Muluki Ain, 2020(BS) (The Law of the Land, 1964) including some other Acts for instances, Civil Rights Act, 2012(BS), Education Act, 2028(BS), Birth, Death and other Personal Events Act, 2033(BS), Evidence Act, 2031(BS), the Disabled Persons Protection and Welfare Act, 2039(BS) among others. Likewise, some child protection related program especially in education, health and child welfare programs were also in implementation. But it is worth to mention here is that at that time the responses to the issues of children were in welfare approach.

After ratification to the CRC, the Government of Nepal has improved Constitutional and legal provisions in child rights and protection perspective, in general, and enacted Children's Act, 2048(BS), Child Labour (Prohibition and Regularization) Act, 2056(BS) in particular. Similarly, the Government has improved policies, plans and program interventions and, some new institutional mechanism like Central Child Welfare Board, District Child Welfare Board and Juvenile Bench were established, whereas some mechanisms were strengthened in child rights and protection perspective for instances, Ministry of Women, Children and Social Welfare, Department of Women and Children, and District Women and Children Office, where the word 'Children' was included. The service delivery mechanism especially in the sectors like education, health and nutrition was strengthened to provide required services to children, and increase access of children to the services accordingly.

This Child Protection Mapping and Assessment Report, though it is delayed to come up in this shape, is one of the important reports in this sector. The Report has scanned wide ranged issues of child protection services, mechanism and system in Nepal. The findings and recommendations of the Report could be instrumental for evidence based and informed decisions in policy and program formulation for the government as well as development partners. Further, these could be significant inputs for

mainstreaming child protection responses at every level of service delivery and in each service provider of relevant sectors.

Central Child Welfare Board is proud to commission this mapping, and believes that the child protection system will be more systematic, responsive and sensitive towards ensuring rights of children.

We would like to extend our sincere appreciation to those institutions and individuals from central to community levels, who contributed to bring this Report in this stage.

Last but not least, we would like to request to all concerned stakeholders to accelerate their efforts in the protection and promotion of the rights of children.

**Government of Nepal  
Ministry of Women, Children and Social Welfare  
Central Child Welfare Board**

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# Acknowledgments

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This Child Protection Mapping and Assessment Summary Report was compiled by Jane S. Kim, pursuant to the direction of Ministry of Women, Children and Social Welfare and Central Child Welfare Board, and with technical guidance of UNICEF's Child Protection Section in Nepal with great inputs and contributions from Save the Children, World Vision Nepal, Plan, Terre des Hommes, World Education.

This Summary Report encapsulates highlights drawn from Nepal's Child Protection System Mapping and Assessment Compendium (Volumes I-7). The Compendium is the culmination of unflagging dedication over several years under the leadership of the Ministry of Women, Children and Social Welfare, Central Child Welfare Board and Interagency Working Group member organisations, including: Save the Children, World Vision Nepal, Plan International, Terre des hommes, World Education and UNICEF.

## **TECHNICAL REFERENCE GROUP**

MoWCSW, CCWB, DWC, UNICEF, Save the Children, World Vision Nepal, Plan International, Terre des hommes, World Education and the local NGO representative: CWIN

## **NATIONAL CONSULTANTS**

**Uddhav Poudyal** - Child Rights Consultant, carried out the preliminary desk review of mandates, structures, plans, budgets, procedures, human resources, programmes and services, information systems and coordination mechanisms, and facilitated regional workshops and focus group discussions with stakeholders in the field.

**Shiva Paudel** - Child Rights Legal Expert, conducted a preliminary desk review of legislation relevant to child protection.

**Prakash Koirala** - Child Rights Consultant, facilitated regional workshops and focus group discussions with stakeholders in the field.

**Dr Aruna Uprety** - Medical Doctor/Researcher, conducted research in Terai and Hill communities.

**Mohan Masarangi** - Data Consultant, contributed to the design of the research tools for mapping of service providers, conducted research in Mountain communities, cleaned the data from the case analysis, and entered and processed data from the field work.

**Yamuna Shrestha** - IMS Consultant, entered online survey questionnaires, cleaned the data and processed survey results.

**Dipty Thapa** - Trainee, translated and summarised the 110 child protection cases, re-entered data into case analysis work sheets and produced issue and response work flows for the cases.

**Vanessa Crowley** - Volunteer, produced the annotated bibliography.

#### **INTERNATIONAL CONSULTANTS**

**Jini Roby** - Doctorate in Law and Master's Degree in Social Work, Professor at Brigham Young University, Utah, USA, and international consultant on child welfare, conducted the national workshops and assisted in the formulation of recommendations and proposal for the child welfare system.

**Jane S. Kim** - Doctorate in Law and Master's Degree in Social Work, Child Protection and Justice Sector Reform Consultant, conducted a comprehensive gap analysis of legislation, rules, policies, procedures, statutory mandates and functions relevant to child protection, and produced an advocacy tool with key findings and recommendations.

**Karen Andersen** - Child Protection Consultant, analysed the results of the case management analysis, summarised the KAPB study on VAC and finalised the situation analysis and the annotated bibliography.

# Abbreviations

<b>ACWG</b>	Alternative Care Working Group
<b>BCC</b>	Behaviour Change Communication
<b>CAAC</b>	Children Affected by Armed Conflict
<b>CAAFAG</b>	Children Associated with Armed Forces and Armed Groups
<b>CBCP</b>	Community Based Child Protection
<b>CBCPM</b>	Community Based Child Protection Mechanism
<b>CBO</b>	Community-Based Organisation
<b>CCI</b>	Chamber of Commerce and Industry
<b>CCTV</b>	Closed Circuit Television
<b>CCWB</b>	Central Child Welfare Board
<b>CDO</b>	Chief District Officer
<b>CeLRRd</b>	Centre for Legal Research and Resource Development (local NGO)
<b>CFLG</b>	Child Friendly Local Governance
<b>CP</b>	Child Protection
<b>CPIE</b>	Child Protection in Emergencies
<b>CPS</b>	Child Protection System
<b>CPS M&amp;A</b>	Child Protection System Mapping and Assessment
<b>CRC</b>	Convention on the Rights of the Child
<b>CRIMS</b>	Comprehensive Rehabilitation Information Management System
<b>CRO</b>	Child Rights Officer
<b>CSEC</b>	Commercial Sexual Exploitation of Children
<b>CSO</b>	Civil Society Organisation
<b>CWIN</b>	Child Workers in Nepal Concerned Center
<b>CWISH</b>	Children and Women in Social Service and Human Rights
<b>CWO</b>	Child Welfare Officer
<b>CWR</b>	Central and Western Region
<b>CZOPP</b>	Children as Zones of Peace and Child Protection (NGO network)

<b>DACAW</b>	Decentralised Action for Children and Women
<b>DAG</b>	Disadvantaged Group (Mapping)
<b>DCPC</b>	District Child Protection Committee
<b>DDC</b>	District Development Committee
<b>DCWB</b>	District Child Welfare Board
<b>DDF</b>	District Development Fund
<b>DFID</b>	Department for International Development (UK)
<b>DFO</b>	District Forest Officer
<b>DHS</b>	Demographic and Health Survey
<b>DPMAS</b>	District Poverty Monitoring and Analysis System
<b>DJJCC</b>	District Juvenile Justice Coordination Committee
<b>DRR</b>	Disaster Risk Reduction
<b>DWC</b>	Department of Women and Children
<b>ECD</b>	Early Childhood Development
<b>DP</b>	Development Partner
<b>EMIS</b>	Education Management Information System
<b>EPR</b>	Emergency Preparedness and Response
<b>ER</b>	Eastern Region
<b>EVAW</b>	Elimination of Violence Against Women
<b>GBV-WG</b>	Gender Based Violence Watch Groups
<b>HMIS</b>	Health Management Information System
<b>HR</b>	Human Resources
<b>IA/CP/IMS</b>	Inter-Agency Child Protection Information Management System (CPiE)
<b>IASC</b>	Inter-Agency Standing Committee
<b>IAWG</b>	Inter-Agency Working Group (child protection, participation and rights)
<b>IDP/WO/GBV</b>	Integrated Development Programme of Women's Organisations/ Cooperatives to reduce Gender-Based Violence
<b>ID</b>	Identity (document)
<b>IEC</b>	Information, Education, Communication
<b>ILO</b>	International Labour Organisation
<b>IMS</b>	Information Management System
<b>INGO</b>	International Non Governmental Organisation

<b>JCC</b>	Juvenile Justice Coordination Committee
<b>JMAWG</b>	Joint Mine Action Working Group
<b>KAPB</b>	Knowledge Attitudes Practices and Behaviours
<b>KM</b>	Knowledge Management
<b>LDO</b>	Local Development Officer (Head of district Local Development Office)
<b>LGCDP</b>	Local Government and Community Development Programme
<b>LNGO</b>	Local Non Governmental Organisation
<b>LSP</b>	Local Service Provider (under LGCDP)
<b>MCPC</b>	Municipality Child Protection Committee
<b>MFWR</b>	Mid and Far West Regions
<b>MICS</b>	Multi Indicator Cluster Survey
<b>MoWCSW</b>	Ministry of Women, Children and Social Welfare
<b>NBA</b>	Nepal Bar Association
<b>NCPA</b>	National Child Protection Alliance (NGO network)
<b>NEPAS</b>	Nepal Paediatric Society
<b>NFE</b>	Non Formal Education
<b>NHRC</b>	National Human Rights Commission
<b>NJA</b>	National Judicial Academy
<b>NLFS</b>	Nepal Labour Force Survey
<b>NLSS</b>	Nepal Living Standards Survey
<b>NPA</b>	National Plan of Action
<b>NPC</b>	National Planning Commission
<b>O&amp;M</b>	Organisation and Management (Survey)
<b>OP</b>	Optional Protocol
<b>OPAC</b>	Optional Protocol to the CRC on the Involvement of Children in Armed Conflict
<b>OPCP</b>	Optional Protocol to the CRC on a Communications Procedure
<b>OPSC</b>	Optional Protocol to the CRC on the Sale of Children, Child Prostitution, and Child Pornography
<b>OPMCM</b>	Office of the Prime Minister and Council of Ministers
<b>PFCR</b>	Parliamentary Forum for Child Rights
<b>PE</b>	Planète-Enfants
<b>PLC</b>	Paralegal Committee [evolved into GBV Watch Groups]

<b>PM&amp;E</b>	Planning, Monitoring and Evaluation
<b>PTA</b>	Parent Teacher Association
<b>SAARC</b>	South Asia Association for Regional Cooperation
<b>SACG</b>	South Asia Coordinating Group on Action against Violence against Children
<b>SAIEVAC</b>	South Asia Initiative to End Violence Against Children
<b>SAPLW</b>	Small Arms and other portable lethal Weapons
<b>SMC</b>	School Management Committee
<b>SWAP</b>	Sector Wide Approach
<b>SZOP</b>	Schools as Zone of Peace
<b>TAF</b>	The Asia Foundation
<b>TPO</b>	Transcultural Psychosocial Organisation
<b>TYP</b>	Three Year Plan (Government of Nepal National Plan)
<b>UCEP</b>	Underprivileged Children's Educational Programmes
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Fund for Population Activities
<b>UNIRP</b>	United Nations Interagency Rehabilitation Programme (Reintegration of Child Soldiers)
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>UN RCHCO</b>	United Nations Resident (Coordinator) and Humanitarian Coordinator Office
<b>UNSCR</b>	United Nations Security Council Resolution
<b>VAM/NekSAP</b>	Vulnerability Analysis and Mapping/Nepal Food Security Monitoring System
<b>VCPC</b>	Village Child Protection Committee
<b>VDC</b>	Village Development Committee
<b>VMLR</b>	Verified Minors and Late Recruits
<b>WASH</b>	Water, Sanitation and Hygiene
<b>WCO</b>	Women and Children Office
<b>WCSC</b>	Women and Children Service Centres
<b>WE</b>	World Education
<b>WVI</b>	World Vision International

# INTRODUCTION

Nepal's Child Protection Systems Mapping and Assessment was carried out by the Ministry of Women Children and Social Welfare (MoWCSW) and the Central Child Welfare Board (CCWB),<sup>1</sup> in 2012 to highlight system-wide strengths, weaknesses and gaps in relation to international standards with the aim of guiding strategic actions to protect more children, in particular the most vulnerable, more efficiently and more effectively.

## Specific Objectives

- 1) To provide an overview of child protection issues in Nepal;
- 2) To conduct a comprehensive review of legislation, rules, policies, action plans, procedures and budgets relevant to child protection;
- 3) To take stock of statutory mandates, structures, human resources, financial resources, programmes and services of every relevant sector, namely: social welfare (child and family welfare), security and justice, local government, health, education, economic and labour;
- 4) To examine the protection role of informal actors, including community groups and their connection to the statutory child protection system;

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1 With technical and financial support from the Inter-Agency Working Group (IAWG) on strengthening state structures for child protection, child participation and child rights promotion, comprised of the following DP's: PLAN, Save the children, Terre des hommes, UNICEF, World Education and World Vision.

- 5) To analyse policy mechanisms across sectors, including information management systems (MIS), multi-sector coordination and accountability mechanisms;
- 6) To summarise key findings and propose strategic recommendations for systematic approaches to prevent harm and protect children against all forms of violence; and
- 7) To serve as an advocacy document with concerned stakeholders including external development partners with a view towards informing future policy development and reform agendas.

## **METHODOLOGY**

The Mapping and Assessment of Child Protection Systems in Nepal utilised four types of methodology: desk review, field work, online survey and national workshops.

***Desk Reviews*** covered (a) national legislation and regulations related to child protection (general and issue-specific); (b) policies, standards, procedures, plans of action, budgets, coordination mechanisms, information systems; and (c) relevant studies and surveys, national statistics. Components of the child protection system were reviewed against the Convention on the Rights of the Child and Protocols and against other international instruments and standards.

***Field Work*** consisted of: (a) Five regional workshops; One in each region with four representatives from each of the 9 districts including: a Child Welfare Officer, a Child Rights Officer, a District Child Welfare Board member and Women

and Children Office personnel; (b) Focus group discussions were held in six districts (four regions and three ecological areas) with government and nongovernment child protection stakeholders at district, VDC, municipality, urban ward and rural ward level; and (c) Interviews with households and key informants in communities of ten different caste/ethnic/religious groups. In each process, participants were asked to analyse actual child protection cases they had handled, using a worksheet, and to list obstacles to child protection systems and recommendations for their strengthening. A total of 110 cases were collected and analysed.

***Online Survey*** consisted of questionnaires for (a) District institutions: DCWB, WCO, DDC LDO, DHO, DEO, Police, Court, Prosecutor and NGOs; (b) Key district individuals: Child Welfare Officer, Child Rights Officer and Chief District Officer; and (c) National institutions: major national NGOs. Information collected included: basic information, contact details, available services through various government and nongovernment agencies including: professional human resources, children targeted, type, coverage and capacity, coordination, plans and budgets, information systems, referrals, case management processes, care and protection decision making, training received by the personnel, training provided to child protection actors, other mandates/roles, equipment and other relevant activities.

***National Workshops*** conducted: (a) Introduction to the child protection system approach; (b) Preliminary findings of the mapping and recommendations; and (c) Validation of the final Child Protection System Mapping and Assessment: Key Findings and Recommendations.

## The **Child Protection System Mapping and Assessment Compendium** includes:

Volume I	Summary Report <sup>2</sup>
Volume 2	Situation Analysis: Child Protection Issues
Volume 3	Violence against Children: Knowledge, Attitudes and Practices
Volume 4	Legislative and Policy Review
Volume 5	Review of Structures, Mechanisms and Functions
Volume 6	Online Survey Key Findings
Volume 7	Case Management Practices: 110 Case Analyses

### **BACKGROUND**

Following ratification of the Convention on the Rights of the Child (CRC) and other key international instruments, the Government of Nepal has commendably undertaken a host of legislative, policy, administrative and other measures towards fulfilling children's rights to protection from violence, exploitation, abuse and neglect over the past two decades.

**The time is *now* to consolidate record gains and build on growing momentum to protect the most vulnerable children** – with a view towards being more strategic, more efficient and more systematic. It begins with recognising commonalities underlying every child protection violation which cut across racial, ethnic, gender, economic and cultural boundaries: structural causes (economic and social); underlying causes

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2 This Summary Report also serves as Volume I of the Child Protection System Mapping and Assessment Compendium.

(access to services); and immediate triggers (leading to family breakdown, crisis, disaster or separation). Similar causes and triggers to rights violations underscore the importance of early detection and intervention with children at risk and their families. Interventions to provide access to education, health services, other social services, including information and life skills education for children and adolescents, parenting skills education for families and access to justice are therefore key strategies.

Child protection violations stem from a confluence of multi-layered and inter-linked causes. Rarely is there one single cause or risk leading (for example poverty, migration or lack of education) to a child protection violation. A child is often vulnerable to more than one risk or violation throughout childhood, which in turn can lead to or exacerbate other types of deprivation, abuse, neglect or exploitation across settings: at home, at school, at work, in care and justice institutions, in communities, in the fields, on the streets, across and beyond borders. Those closest to the child are distinctly positioned to prevent violence, mitigate risks and respond to violations. Children themselves, their families, peers and local communities are often the first to know when a child is in danger. Teachers can serve as early detection sounding bells - for all risks and violations against a child. However, children, their families and community members are often overlooked in governance frameworks and the design of systemic solutions for protection of children.

Nepal's child protection system has been constructed over decades, largely issue by issue. Governed by a broad range of laws, rules and policies aimed at preventing and responding to all forms of violence, exploitation and abuse against children,

this system cuts across the social welfare, security and justice, labour, health and education sectors; operates at national, district, village, ward and community levels with wide-ranging (formal and informal) mechanisms and services; encompasses Government, civil society and informal actors; and draws upon resources from the Government budget, development partners and individuals.

The sphere of statutory actors mandated to directly support children however, is limited. Generally each actor will have a distinct mandate which applies to a range of child protection issues, however, their specific roles and functions are not defined along the care and protection continuum vis-à-vis identification, reporting, investigation, assessment, treatment, referral, follow-up and case closure. Prevention, early intervention and response services are not sufficiently extensive in scope or scale.

Weak implementation of existing laws, rules, protocols and standards has led to ad hoc service delivery, gaps in service provision, including limited collaboration between social welfare, justice, labour, education, health and civil society actors. The absence of a dedicated frontline social worker force further impedes the systematic follow up of individual cases from identification to closure. Efforts to strengthen institutions, mechanisms and capacities at national and subnational levels should integrate all child protection issues and factor in cross-overs from other sectors and institutions.

The engineering of Nepal's child protection system has not been synchronised; not at the design, building nor implementation phases. As a result, the infrastructure of the current child protection system is in place, but it is not systematic or comprehensive. Instead of the interactive parts of the system

working in unison, at times these parts conflict, compete or fail to connect. In order to move forward, greater efforts must be undertaken to harmonise, strengthen and unify the various components,<sup>3</sup> sectors and the formal and informal dimensions comprising Nepal's child protection system at all levels. This comprehensive multi-sectoral system approach maximises resources; precludes overlaps in structures, mechanisms and plans; improves the coverage, breadth and quality of services; flexibly addresses the range of child protection risks and violations; unites stakeholders behind common goals and strategies; and assures sustainability. The proposed **One Child Protection System** will deliver greater results for children.

## GOVERNANCE FRAMEWORKS

Following the ratification of the Convention on the Rights of the Child, the Government of Nepal has enacted the Children's Act (1992), Children's Rules (1995) and a number of child protection issue-specific acts, rules, strategic frameworks, guidelines, standards, terms and conditions in the areas of child labour, bonded labour, gender-based violence, trafficking, residential institutional care, inter-country adoption, juvenile justice, *chhaupadi* (menstrual isolation), and HIV-AIDS. These frameworks set out a broad range of rights, protections, structures, mechanisms, mandates, functions and funds which collectively shape a partially enabling environment to protect children.

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3 Including: laws, regulations, policies, procedures, budgets, services (prevention, early intervention and response), mechanisms (case management, service delivery, referral, MIS, coordination, cooperation, monitoring, accountability), human resources and social norms.

However, these reforms have been pushed forward in an isolated and fragmented manner focused on issues or specific groups of vulnerable children without fully accounting for the interconnectedness or indivisibility of children’s rights – thereby leading to serious gaps; partial compliance with international standards; inconsistencies and contradictions between various frameworks; inadequate allocation of resources; lack of coherent referral mechanisms; insufficient attention to early intervention and family strengthening; disproportionate emphasis on response to single issues as opposed to prevention of all forms of harm; and disconnection within, between and across the sectors, including social protection and welfare, justice, health, education and labour and between national and local governance.

### 1.1 LAWS AND RULES (REGULATIONS)

Despite Constitutional provisions stipulating the rights of vulnerable children to special benefits, this has not been detailed in legal frameworks for child victims of all forms of violence. Issue-driven laws and rules<sup>4</sup> have led to uneven entitlement to benefits and services depending on the nature of harm experienced by the child. For example, the Government is obliged to provide services to trafficked victims but the same does not apply to rape, incest or torture victims. As a result, the legal frameworks fall short of compliance with the CRC, the Optional Protocols and other international norms and standards. Salient deficiencies include inconsistent definitions of a child: including ‘below 16 years’ in some laws; the minimum age of criminal responsibility (10 years); inadequate provisions

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4 This includes, *inter alia*: the Begging Prohibition Act, Bonded Labour Act, Caste Based Discrimination and Untouchability Act, Child Labour Act, Child Labour Rules, Domestic Violence Act, Domestic Violence Rules, Human Trafficking Act, Human Trafficking Rules and Juvenile Justice Rules.

on care and protective services to children; and weak state compliance to protect children against all forms of abuse, neglect, exploitation and violence.

Among the first countries to ratify the CRC, Nepal strode forward with the Children's Act, 1992, which heralded greater protections for children particularly those deprived of family care and children in conflict with the law. This includes *enforceable rights* to maintenance, upbringing, education and health care and protection from certain acts of violence; stipulation of various forms of alternative care including guardianship; safeguarding of property rights; and the establishment of Juvenile Courts, greater due process and (limited) child-friendly justice proceedings.

Nevertheless, continue to gaps persist. A child is defined as a person below 16 years old and the minimum age of criminal responsibility is 10 years old. The Children's Act, 1992, currently has no provisions regarding: (i) child victims of violence, abuse, neglect or exploitation; (ii) family preservation, family strengthening and family-based alternative care; and (iii) socio-educative measures for children in conflict with the law. Mandates, roles and accountabilities of government authorities and structures with regard to child protection are not clearly defined. Moreover, there is a lack of standards and case management protocols regulating prevention, early intervention and response services.

Provisions relevant to child protection and child welfare are dispersed across broader governance frameworks<sup>5</sup>, including but not limited to:

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5 Year in Bikram Sambat B.S (Nepali Calendar)

Interim Constitution of Nepal, 2063  
*Muluki Ain* (National Code), 2020  
Administration of Justice Act, 2016  
Administrative Procedures Act, 2013  
Armed Police Force Act, 2058  
Army Act, 2063  
Birth, Death and other Personal Events Act, 2033  
Birth, Death and other Events Rules, 2034  
Citizenship Act, 2063  
Civil Rights Act, 2012  
Compensation Act, 2019  
Contract Act, 2056  
Crime against State and Punishment Act, 2046  
Drugs Act, 2035  
Education Act, 2028  
Evidence Act, 2031  
Good Governance Act, 2064  
Immigration Act, 2049  
Interpretation of Laws Act, 2010  
Higher Secondary Education Act, 2046  
Human Rights Commission Act, 2068  
Labour Act, 2048  
Land Act, 2021  
Legal Aid Act ,2054 and Rules ,2055  
Narcotic Drugs (Control) Act, 2033  
National Woman Commission Act, 2063  
National Bar Council Act, 2051  
National Health Service Act, 2053  
National Law Commission Act, 2063  
Police Act, 2012  
Poverty Alleviation Fund Act, 2063  
Prisons Act, 2019  
The Disabled Persons Protection and Welfare Act, 2039  
The Protection and welfare of the Disabled Persons rules, 2051  
Right to Information Act, 2064  
Social Welfare Act, 2049

Frameworks more specific to child protection include:

Children's Act, 2048

Children's Rules, 2051

Begging Prohibition Act, 2018

Bonded Labour Prohibition Act , 2058

Caste-based Discrimination and Untouchability (offence and Punishment) Act, 2068

Child Labour (Prohibition and Regulation) Act, 2056

Child Labour (Prohibition and Regulation) Rules, 2062

Domestic Violence (offence and Punishment) Act, 2066

Domestic Violence (Offence and Punishment) Rules, 2067

Human trafficking and Transportation (Control) Act, 2064

Juvenile Justice Procedural Rules, 2063

Spanning these frameworks, cross-cutting gaps limit the scope, applicability and specificity of existing provisions to every form of violence across all settings and contexts including during disasters, emergencies and conflicts or when children are on the move (including child migrants, child internally displaced persons, child asylum seekers and child refugees) or children left behind by migrating parents. The laws are silent on important matters: (i) the full continuum of care and protection, including emphasis on prevention and early intervention; (ii) protection of children at all stages of the criminal, civil and administrative justice process; (iii) child-friendly mechanisms to ensure that children have direct access to services, entitlements and justice; (iv) equity considerations for discrete groups of children including those with disabilities and special needs; and (v) linkages between the formal and informal child protection systems. Despite recent progress on legislating gender equality, gender discrimination remains entrenched in family, criminal, citizenship and inheritance provisions.

Although some concepts are explained, many terms are not explicitly defined in relevant frameworks including: *Alternative Care, Basic Facilities, Basic Services, Care, Child Labour, Child Participation, Child Trafficking, Child Witness, Child Welfare Home, Confidentiality, Constitutional Remedies, Cruel Treatment, Differently Able Child, Discrimination, Displaced, Gang Rape, Institutional Care, Intercountry Adoption, Juvenile Justice, Mainstreaming, Mental Violence, Migration, Physical Violence, Preventative Detention, Prevention, Privacy, Refugee, Rehabilitation, Reintegration, Sexual Abuse, Sexual Exploitation, Social Protection, Special Benefits and Torture.* Conceptual clarity is imperative to ensure that all stakeholders define and interpret legal concepts and (operational) terms in the same way to promote wide-ranging cooperation, effective monitoring, measurement of outcomes for children, and greater accountability. Where terms have been officially defined by the Committee on the Rights of the Child, other treaty bodies and United Nations organizations, or are based in international law, consistency of these official definitions should be ensured in legislative, policy and operational frameworks.

## **Violence against Children**

Across the full breadth of Nepal's governance frameworks, there are numerous laws and rules relevant to children's right to protection. Under existing laws, the following acts of violence against children are prohibited or criminalized:-

Abduction

Battery

Bonded Labour

Caste based discrimination

Child and Early, Forced Marriage

Child Begging

Child Labour  
Child Offering<sup>6</sup>  
Sale of children  
Domestic Violence  
Exploitation  
Foreign Employment  
Guardian Breach of Duties  
Handcuffs and Fetters  
Homicide  
Human Trafficking  
Human Transportation  
Imprisonment with Adults  
Incest  
Immoral Profession  
Drug Sale, Distribution, Smuggling  
Rape and Gang Rape  
Solitary Confinement  
Torture or Cruel Treatment  
Involvement in Army, Police or Armed Conflicts

Services for child victims of violence are not mandatory in existing legislation, and therefore can be ad hoc in delivery. Legal frameworks further fragment the child protection system, splitting mandates between various Government bodies for the same overlapping issues – for example: child trafficking and child labour, domestic violence and GBV, rape and GBV, child trafficking and GBV, children on the streets and juvenile justice, children on the streets and worst forms of child labour.

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6 Offering children for the temple as a Devi/Badi, etc.

Mandates do not extend along the entire continuum of care and protection. Rather, they give rise to a patchwork of parallel coordination mechanisms and response services which are heavily concentrated in urban areas.

### **Alternative Care Narrowly Framed**

Although ‘orphaned children’ is defined broadly to include separated and missing children, this category is not further defined nor taken into consideration to create safety nets for children without (adequate) parental care who do not fall under traditional conceptions of orphaned, abandoned or relinquished children yet require care. For example:

- children born out of wedlock
- children voluntarily committed to orphanages/homes
- unaccompanied and separated minors
- internally displaced, asylum seeking and refugee children
- child migrants (or children of migrants)
- child victims of violence
- child domestic workers
- separated child labourers
- children living alone on the streets
- children arbitrarily detained
- child headed family (households)

Too often, children are placed in residential/institutional care as a measure of first resort for indefinite periods of time – a practise which is not in compliance to the necessity and suitability principles enshrined in the UN Guidelines for Alternative Care for Children.

## Justice for Children

In line with the broader Justice for Children framework<sup>7</sup> aimed at ensuring that children are better served by justice systems, Nepal's governance frameworks recognise that children are entitled to legal remedies under various justice realms: criminal justice, civil/family justice (including district courts, domestic violence complaint hearing body and labour offices), quasi-judicial bodies (CDO, DFO, DDC/VDC/MDC and Arbitration Board) and the National Human Rights Commission, the National Women's Commission and the National Dalit Commission.

Unfortunately children's access to justice remains limited and this has not been adequately addressed in existing laws and rules. Safeguards are wholly inadequate for child victims of and witnesses to crimes, who come into contact with both formal and informal justice systems. Protections are very limited and inadequate for child victims and witnesses throughout the justice process. Certain types of cases have stringent filing deadlines: 35 days statute of limitations for rape cases, within 1 year for an offence punishable under the Children's Act and within 3 years for an offence involving engagement of a child in commercial sexual exploitation including prostitution, erotic dance performances, child pornography. However, there continues to be no accountability within the informal justice system when violations are handled in breach of national laws and international standards, for example: child marriages which are authorized or sexual offences against the child settled through compensation or marriage to the perpetrator.

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7 UN Common Approach to Justice for Children, 2008.

Within the juvenile justice arena, deficiencies include:

- No linkages between social welfare and juvenile justice systems
- Lack of provisions addressing prevention of juvenile delinquency, services for child victims at risk and treatment of children below 10 years old who come into conflict with the law
- Minimum age of criminal responsibility is 10 years old, which violates international standards that consider the age below 12 unacceptable
- A child defined as below 16 years old, hence those over 16 are treated as adults in terms of sentencing including possibility of life imprisonment
- Juvenile Benches are not fully functional in some districts and there are inadequate resources allocated to 'speed up' their full coverage
- Only three child correction homes are operational with inadequate provisions to facilitate correction, reintegration or rehabilitation
- No prescribed aftercare services for juveniles released from custody and child correction home
- Lack of measures and mechanisms for diversion, restorative justice and alternatives to custodial sentencing
- No principles of restorative justice
- The presence of parent/guardian in judicial proceedings is compulsory only if the presence of guardian promotes best interest of juvenile
- The principle of a pre-trial detention as a measure of last resort and for the shortest possible period of time defined by the CRC Article 37(b) and Beijing and Havana Rules is not respected
- Detention of juveniles with adults

- Poor conditions of detention centres
- Lack of accredited psychologists and social workers
- Lack of a comprehensive and consistent monitoring system

Legislative reform efforts are currently underway. These include the Children’s Act 1992 which is not fully compatible with international standards. The age of the child is 16 years, and the age of criminal responsibility remains at 10 years. A significant part of the Act is dedicated to juvenile justice; including the establishment of Juvenile Courts and Benches. Provisions for broader justice for children has been overlooked. Family strengthening and family-based alternative care, basic best interest determination processes and including provisions for special protection and rehabilitation of children, violence against children and child sexual abuse needs to be strengthened. The Act, makes no provision for the requisite services to support child victims across the social welfare, justice and other sectors in order to support child victims along the entire continuum of care.

It is crucial to integrate child welfare and child protection provisions, in accordance with relevant international standards, in the new Constitution and other pending legislations including but not limited to: the Criminal Code/ Procedure/ Sentencing Bill; Civil Code/Procedure; Bill on Victim Protection in the justice system; Witness Protection Bill; Bill to amend Education Act; Bill enacted to Amend and Consolidate Laws Concerning Persons with Disabilities; and the Bill enacted for the Provision to Provide Treatment and Protection for Mental Health.

## **RECOMMENDATIONS**

- I. Mainstream child protection in constitutional reform and broad-ranging legislative reform processes vis-à-

vis social protection, decentralisation, civil and criminal law, labour, justice, education, health and others in accordance with international norms and standards – from the onset through consultation papers, drafting of bills, explanatory notes and reports.

- II. Adopt a comprehensive, integrated and rights-based approach to future legislative reforms and implementation mechanisms on child protection in Nepal, taking into account the entirety of children’s lives, in effect all situations, all risks and all vulnerabilities facing children. In addition to setting out rights and principles, emphasis should be on empowerment and accountability of those responsible for implementing the laws. There should be an emphasis on detailing the implementation of the plans, establishing and resourcing all the measures necessary to effectively implement the laws at national, district, municipal, district and village levels.
- III. Revision of the Children’s Act could consider following recommendations, at a minimum:
  - a. Provide a definition of key terms consistent with the Committee on the Rights of the Child, other treaty bodies and United Nations’ organizations and international law;
  - b. Set specific mandates, roles and accountabilities of respective government structures with regard to child protection including implementation, service provision, coordination, monitoring and oversight;
  - c. Ensure adequate budgetary allocations for national and local government to fulfil their respective mandates including increased and qualified human resources, material resources, service delivery and operational costs;

- d. Ensure administrative, judicial, social and educational measures to protect all children in need of care and protection (victims of maltreatment, at risk, temporarily or permanently deprived of family environment, in conflict with the law);
- e. Prohibit all forms of violence against children including corporal punishment in all settings - family, care homes, schools, etc.;
- f. Set specific orientations, standards and respective roles of various government sectors and nongovernmental agencies in the provision of services for prevention and response for the care and protection of children at risk, children deprived of parental care and victims of child protection violations in all contexts;
- g. With regards justice: (i) increase the age of criminal responsibility from 10 to 12 years; (ii) include provisions on diversion and socio-educative measures as alternatives to detention; (iii) expand the scope of Juvenile Benches (and the Juvenile Courts proposed in the new Children's Bill) to all children in contact with the law, including victims and witnesses of crime, as well as children in contact with the law for any other reason such as divorce or alternative care decisions, so all have access to protection, child-friendly procedures, specialised services and their monitoring; (iv) include provisions to provide free legal, medical and psycho-social aid, assistance and support for children (v) provide for child accessible justice mechanisms and access to independent complaints mechanisms

- and effective remedies including compensation;
- h. Integrate provisions for harmonizing information management systems including data collection, monitoring and evaluation in the area of child protection, including the development and implementation of an integrated Child Protection Information Management System to measure joint outcomes for children, as well as data specific to respective sectors on individual cases, services, budget allocation and utilization.

## 1.2 POLICIES AND PROCEDURES

### PLANS OF ACTION, GUIDELINES, STRATEGIES, STANDARDS, TERMS and CONDITIONS

The 2012 National Child Policy and revised National Plan of Action for Children (2004/5-2014/15) take a much more comprehensive approach to child protection than the earlier 1992 Children's Act, incorporating provisions on child abuse, neglect and exploitation, awareness-raising, rescue and rehabilitation services, family support services including for children at risk, family-based alternative care, incorporation of child protection in national and local budgets, case records and information systems, programme standards and monitoring.

The Government has also endorsed *issue-specific national plans of action* in the areas of child labour, trafficking, gender-based violence, juvenile justice and conflict-affected children. While these policy documents provide an overall framework for action with improved understanding of and commitment to child protection, they are overlapping, budgetary allocations is not adequate and fall short on implementation details for example: detailed activities, indicators, targets, budgets, responsibilities/

accountabilities and/or coordination, monitoring and evaluation mechanisms.

More detailed guidelines, standards, directives and terms and conditions have been developed to address specific issues including: residential care, child correction homes, inter-country adoption, *chhaupadi*, trafficking and issue-based funds. Against the backdrop of fragmented child protection governance, procedural guidance on discrete issues, particularly residential care, there is the danger and evidence of diverting the much-needed focus and resources on family-based care, including preserving and strengthening families whenever possible and appropriate.

## RECOMMENDATIONS

- I. **Formulate a multi-sector National Child Protection Operational Plan** utilizing a sector wide approach to child protection that operationalizes existing laws, rules, policies, plans, standards, directives and guidelines in a coherent, integrated and streamlined manner. The Operational Plan should clearly outline mandates, roles, structures, mechanisms, human resources, costing, protocols/procedures, indicators, targets, data collection, inter-ministerial coordination, monitoring and evaluation, programmes and services required within, between and across sectors to prevent and respond to child protection risks and violations along the entire continuum – converging at all levels and with strong linkages to informal systems of protection.
- II. Ensure that the National Child Protection Operational Plan is the standard child protection reference across sectors for purposes of service provision, coordination, advocacy, resource mobilization, monitoring and

evaluation. All government and non-governmental actors and sectors should contribute to its implementation, thereby precluding duplication, maximising resources and promoting even coverage of services taking into account equity considerations.

**III. Set Cross-Sectoral Standards and Procedures:** establish child protection standards and procedures governing the identification, reporting, assessment, treatment, repatriation and follow up of child protection cases for each key sector (justice and security, labour, education, health) and for local government, as well as the interactions between them.

### 1.3 BUDGETARY

Compared to other social sectors, budgetary allocations specific to child protection, are very low. The lead ministry for child protection, MoWCSW's total budget for fiscal year 2010-2011 was 1,189 million Nepali Rupees (USD \$14 million), which represented less than 1% of the national budget, and of this only 8% of MoWCSW's budget was allocated to children. Exact amounts earmarked for child protection within MoWCSW and other ministries remains largely unknown, and can be assumed to be minimal and not adequate.

Under the Ministry of Federal Affairs and Local Development, municipalities and VDCs are entitled to block grants which have been used to support various CBOs, GBV Women's groups and Village Child Protection Committees across Nepal. While the process of planning and budget allocation is at a satisfactory level, the implementation of plans and accountability mechanisms need to be strengthened.

Several issue specific ‘funds’ with respective Regulations or Guidelines have been established for, linked to an Acts, for example: the Children (Development and Rehabilitation) Fund Rules (2053); Emergency Child Rescue Fund (Operational) Rules (2067); Gender-Violence Elimination Fund Rules, 2067 , and Child Welfare Committee Fund (Operational) Procedure 2069. Funds are allocated for a specific time period only and have no bearing or influence or guarantee of future allocations.

Most child protection interventions implemented by the Government or local NGO’s are funded by DP’s, including the international I/NGO’s, bilateral, UN and other multilateral agencies. Most of national plans do not have a budget. Even plans with budget lines, for example the National Master Plan on Child Labour and National Three-Year Plan, have not been funded, or the earmarked funds used for their intended purpose of advocacy, resource mobilization and/or coordination.

## RECOMMENDATIONS

- I. Child protection should be mainstreamed in national plans and budgets.*** Interventions proposed in the National Plan of Action on Children and future Child Protection Operational Plan should be included in the National Periodic Plans and Annual Budgets of each respective sector. Costing of child protection policies are pivotal to provide the Government of Nepal a clear indication of required budgetary allocations by sector, as well as, to steer phased, meticulous and cost-effective implementation over the budget cycle.
- II. Child protection needs to be prioritised in local plans and budgets*** under existing multi-sectoral frameworks: Local Self-Governance Act, Local Governance and Community

Development Programme (LGCDP) Guidelines and Child-Friendly Local Governance (CFLG) Operational Guidelines. Child protection needs to be adequately reflected in LGCDP and CFLG indicators, data collection, planning and monitoring tools. Relevant Child Protection stakeholders, including DCWB, CWO, CRO, VCPC should engage more to mobilise local resources for activities related to protection of children.

***III. Partnerships with the private sector including I/NGOs to be strengthened for resource mobilisation.*** Partnerships with the Chamber of Commerce and Industry, the private sector including private sector professional associations and relevant I/NGOs should be sought at national and local levels.

***IV. Child protection resource allocation should not be limited to budget allocation for the Ministry of Women, Children and Social Welfare,*** but also earmarked resources need to be part of the budget of other relevant ministries/sectors including education, health, justice and labour.

## **STRUCTURES AND FUNCTIONS**

Currently in Nepal there is no single authority responsible for the overall implementation, monitoring and coordination of child protection at national and local levels. The principal responsibility of child protection falls with the social welfare (child welfare) sector - divided between the Ministry of Women, Children and Social Welfare (MoWCSW), the Department of Women and Children (DWC) and the Central Child Welfare Board (CCWB). Local bodies under various sectors are also charged with protecting children, including Chief District

Offices (CDOs), District Development Committees (DDC), District Child Welfare Boards (DCWB), Municipalities, Village Development Committees (VDC), Village Child Protection Committee (VCPC), Ward Development Committees (WDC), and Ward Child Protection Committees (WCPC).

## **2.1 POLICY MECHANISMS**

IMS, COORDINATION, MONITORING

### **INFORMATION MANAGEMENT SYSTEMS [IMS]**

Overall there is no comprehensive information management system (IMS) to collect, collate, analyse and utilise data relevant to child protection across the key sectors and local governance. The 2012 Child Policy envisaged a Child Protection Information Management System (IMS) – as yet not operational - that will publish annual data on domestic labour, sexual, physical and mental abuse and trafficking, in coordination with various sectors including police. The Central Child Welfare Board (CCWB) and District Child Welfare Board (DCWB) are tasked with overall coordination, monitoring and evaluation of child protection issues among national bodies, local entities and community-based structures.

Although various estimates and indicators corresponding to discrete child protection issues are tracked by a range of stakeholders (see below), these have not been carried out systematically. A comprehensive and integrated framework with standard operational definitions, common measurement approaches, enumeration tools must be used as existing systems are vastly fragmented, with different sectors and civil society groups compiling piecemeal data sets relevant to child protection with limited comparative and consolidation value.

At times, this vertical and silo approach has undermined the feasibility of tracking progress, including meeting stated targets such as ‘*decreased rate of the worst forms of child labour*’. Ultimately the lack of interconnectivity between and across sectors at all levels undermines overall accountability to protect children.

## RECOMMENDATIONS

- I. Establish a **Child Protection Information Management System (CPIMS)** to record harmonized child protection information across various sectors, local governance and informal systems, which can also serve as a monitoring system. The system should enshrine data on exact number of child care homes and their residents.
- II. **Mainstream child protection indicators** in Education and Health MIS, as well as local governance mapping and analysis systems.
- III. **Harmonize data on children across the justice sector and link to overall CPIMS** – including: police, prosecutors, judiciary, hearing bodies/commissions, prisons, and legal aid.
- IV. **Systematically analyse existing raw data of national household surveys**, including relationship between children and heads of households.
- V. **Include major child protection indicators in the national census.**

## COORDINATION and MONITORING MECHANISMS

Nearly every Government body and coordination mechanism has a generic monitoring mandate with respect to specific issues, policies and national plans, special funds, information management, programmatic activities, and justice/care

institutions. The Office of the Prime Minister and Council of Ministers carry the mandate for the protection and promotion of Human Rights. While a separate Children's Section does not exist, there is a monitoring unit on gender-based violence (GBV). With overall authority for planning integrated programmes under different ministries, the National Planning Commission (NPC) coordinates, assesses and monitors the coherence of programmes run by different ministries to ensure compliance with various NPAs. Although the NPC has a Child Desk, it has not yet been engaged to deal with child protection issues.

The National Human Rights Commission (NHRC) monitors child rights violations (generally) and is also mandated to receive individual complaints on child rights violations. While it is not part of the structure, the NHRC has informally established a Children's Desk that monitors incidences of violations and proposes recommendations to the GoN. Under the NHRC, the Special Rapporteur on Trafficking published reports on the status of trafficking in persons.

The Central Child Welfare Board (CCWB) and District Child Welfare Board (DCWB) are tasked with overall coordination, monitoring and evaluation of child protection issues among national bodies, local entities and community-based structures. Although there are various community-based and district level monitoring mechanisms, comprehensive mechanisms do not exist at any level to systematically monitor and respond to child protection violations. The CCWB and some DCWBs collect data and prepare annual reports on status of children, but the quality and worth of these reports are not up to expected level, in particular when it comes to disaggregation and validation of data. Some of the national NGO's, such as Advocacy Forum, CWIN or INSEC, collect, compile and publish data on child

rights violations which they collect from various sources: the cases they receive (for example: CWIN: Child Helpline; Advocacy Forum: children in police custody monitored in 20 districts); the media; their network of NGOs, CBOs and community volunteers; and specific studies/surveys. The Juvenile Justice Coordination Committee's (JJCC) Secretariat also collects and maintains data and information of the cases of juveniles in conflict with law.

Numerous interagency coordination mechanisms exist at all levels and in every sector. Membership tends to be redundant in most cases,<sup>8</sup> terms of reference, roles are not clearly defined and thematic areas of coverage overlap. Issue based coordination mechanisms create parallel and redundant structures. Broad human rights or GBV related mechanisms often overlook children who are also affected directly or indirectly. Multi-sector coordination mechanisms generally include social welfare, health, education and local government but are often missing the security and justice sector.

Most government-led inter-agency mechanisms established at the national level also exist at sub-national levels. **At district, municipal and village levels**, District Child Welfare Boards (DCWBs)/District Child Protection Committees (DCPCs), Municipality Child Protection Committees (MCPCs) and Village Child Protection Committees (VCPCs) are the leading coordination and referral mechanisms from relevant sectors – to varying degrees of efficiency in different locations. The security and justice sector is often not included in these mechanisms, and there is a general lack of coordination between the social welfare and the justice sectors since most Some District

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8 Reportedly, Chief District Officers (CDO's) are the chairpersons of between 80 and 100 committees and approximately 50% of CWOs (56 respondents) reported being members of more than 20 different committees. Online Survey, 2013.

Juvenile Justice Committees (DJCC) are not fully functional. Members of the various committees are more likely to be the same at district level, and even more so at Village Development Committee (VDC)/Municipal level. In regional capitals such as Biratnagar, Bharatpur or Nepalgunj, where a number of DPs have regional offices, child protection actors have set up inter-agency coordination mechanisms.

## RECOMMENDATIONS

- I. **Strengthen existing inter-ministerial coordination mechanism administered by CCWB through upgrading its status to become National Child Rights Coordination and Monitoring Body. Similar reforms to be undertaken at the district level through introducing one single coordination mechanism responsible for children.** Specific thematic areas can be steered by sub-working groups with well-defined Terms of Reference, under the broader coordination mechanism, in order to ensure overall coherence. Existing issue-specific coordination mechanisms should be reviewed to determine whether they can be incorporated into this umbrella coordination mechanism - working towards common system objectives and milestones.
  
- II. **Mainstream child protection in coordination mechanisms with broader remits** such as civil registration/vital statistics, social protection, trafficking, gender-based violence, local governance, Rule of Law and other justice arenas. Integrating dimensions specific to children and their protection is crucial to avoid duplication of initiatives, to standardise trainings and institutional capacity strengthening, and to harmonise systems-based approaches for maximum impact.

Prioritise child protection and children's rights agenda within National Human Rights Commission and introduce a specialised mechanism, for example a **dedicated Commissioner on Children's Rights** with adequate resources, that can operate efficiently at the central and regional levels, be accessible and has child-friendly complaints handling mechanisms.

III. Develop a mechanism that **standardises inspection and monitoring of Child Welfare Homes, Child Correction Homes and other institutions** where children are held, which includes regular reviews to ensure compliance with inspection reports and court directives.

## **2.2 SOCIAL WELFARE: CHILDREN AND FAMILIES**

### **STRUCTURES MANDATES and FUNCTIONS**

Although there is no single sector or entity charged with the overall protection of children, the social welfare sector has the lead role to promote and ensure child and family welfare.

A major obstacle within the sector is the overlap in roles and responsibilities, inadequate human resources for child protection, particularly the lack of social workers and case managers. With the exception of District Child Welfare Officers (CWOs), who have other full-time responsibilities such as Women Development Officers as well as additional portfolios related to disability and senior citizens, there are no human resources specifically assigned to child protection. Moreover, those who work with children often do not have relevant academic qualifications, experience or the specialised training required. There is no accreditation for social work studies and no licensing of the social work or child and family psychology profession.

## NATIONAL

### MINISTRY OF WOMEN CHILDREN AND SOCIAL WELFARE

'Children' was added to the mandate of the Ministry of Women and Social Welfare in 2000, including *'formulation, implementation, monitoring and evaluation of policies, plans and programmes, studies, training, coordination with international, regional and national organisations and monitoring of their programmes related to children'* and *'protection of orphan children, welfare of children, adoption, Child Welfare Homes'*. Under the Women Empowerment and Children Development Division, there is a 'Child Protection and Development Section' responsible for the following government-run services: 4 Child Welfare Homes (with a total of 98 children), 3 Child Reform Homes, and a National Centre for Children at Risk

### DEPARTMENT OF WOMEN AND CHILDREN

Originally the Department of Women Development (DWD), the Department of Women and Children (name change in Sept 2010) did not extend its mandate to include children. No additional human or financial resources have been provided and child protection in particular was not included in staff job descriptions. As a result nothing changed until the beginning of 2013, when, for the first time, DWC designated one of its staff as Focal Point for Children though specific functions have yet to be defined<sup>9</sup>.

### CENTRAL CHILD WELFARE BOARD

The Central Child Welfare Board (CCWB) is composed of 21 members including chairperson. The Council of Ministers appoints the chairperson and some members among the child rights and social professionals including representation of some senior level officials from various governmental agencies. The CCWB *prepares nationwide reports relating to children on the basis of annual reports received from District Child Welfare Boards (DCWBs) and national level information; formulates, reviews, evaluates, mobilizes resources and implements policies, plans, programmes and activities for the protection of rights and interests of children and their physical and mental development; and promotes UN and other international instruments on child rights, and the collection of data on vulnerable children, Child Care Homes, Child Correction Homes and monitor their services.*

The CCWB has established a Secretariat with 17 staff, 10 of them are funded by Development Partners (DP). The Secretariat produces an annual report on children, organizes public awareness events, rescues children from abusive Child Care Homes and other harmful and exploitative situations, builds the capacity of District Child Welfare Board (DCWB) and plans, supports and monitors DP-funded programmes implemented by DCWBs. In practice, CCWB and DCWBs have been working as active agencies in fulfilling the gap particularly to address child protection issues and for coordination among government and nongovernmental organisations

<sup>9</sup> Ministry of Women, Children and Social Welfare have established "Child Protection Officers" post in 22 districts and "Child Protection Inspectors" post in 53 districts, under Department of Women and Children, expected to be recruited within 2015.

## DISTRICT

### DISTRICT WOMEN AND CHILDREN OFFICES

In 2012, when the Child Protection Mapping initiative was undertaken, District Offices had between 10 and 15 staff, out of which 7 to 12 professional/technical staff, plus an average of 12 social mobilisers.

WCO's main activity is implementation of the women's empowerment programme, and combating gender-based violence and trafficking. WCO's run shelters for women and girls victims of violence in 15 districts. From 2010, WCO's have been taking charge of the Paralegal Committee (PLC) Programme and from mid-2012 have been integrating it into their regular Women Development Programme as GBV Watch-groups. Although this is supposed to be a community-based protection mechanism for both children and women, so far only 10-15% of cases have been children's. PLCs were initially established in the 23 DACAW districts and since 2010 have been extended to more than 1000 VDCs across 59 districts.

### DISTRICT CHILD WELFARE BOARD

The DCWB is composed of individuals in their personal capacity and the representatives from various agencies appointed by the Chief District Officer (CDO). The DCWB submits an annual report relating to child rights and development. It has the same mandate as CCWBs at local level, including facilitation and monitoring of Child Care Homes and issuance of directives to correct irregularities. In practice, DCWB carries out the following: production of annual reports on children and programmes/services for children in the district, promotion of child rights, in particular through public awareness events, monitoring of Child Care Homes, establishment of District Child Emergency Funds and local resource mobilization to respond to cases of children at risk, rescue and provision of emergency response for child protection cases reported to them, establishment of coordination and referral mechanisms (DCPC and VCPC/MCPC), registration of and orientation to Child Clubs.

### *Child Welfare Officers (CWO's)*

The 1992 Children's Act provides for the appointment of '*as many CWO's*' as necessary in every district, to perform key tasks related to the placement of children deprived of parental care as well as the inspection of Child Welfare Homes and Child Reform Homes. The 1995 Children's Rules further define the role of the CWO as Secretary of DCWB, which is to assist DCWB to carry out all its functions.

***In practice***, to date, no Child Welfare Officers have been appointed. Instead, the Government has *designated* the Heads of District Women Development Offices (Women Development Officers – WDOs) to '*utilize the authority assigned to the Child Welfare Officer according to the Children's Act*'. However, WDO's already have full-time jobs as Heads of Women and Development Offices. Tasks related to child protection – including those indicated in the Children's Act and Children's Rules - are not included in their job description. The lines of authority are not clear: as WDO's they report to DWC and as CWO they report to DCWB Chairperson (usually CDO) and to CCWB

### ***Child Rights Officers (CRO's)***

In order to support the work of DCWBs in the absence of appointed separate Child Welfare Officers, DPs supported Child Rights Officers since 2004 in 50 districts extending to all 75 districts by 2012. In December 2012, the job description of CRO was harmonised and endorsed by MoWCSW.

Under the supervision of CWOs yet reporting to DCWBs, CROs carry out the following main tasks: **Child welfare services:** individual case administration reported to DCWB/WCO; determine care options; document cases; supervise services for children with regard to implementation of standards and case management; support DRR, EPRP and Child Clubs activities; and support management, coordination, planning, monitoring and reporting.

***In practice,*** CRO's have been fulfilling the responsibility of DCWB secretariat and carrying out other tasks related to DCWB, including the implementation of DP-supported programmes in the districts. However their status is ambiguous; they are under contract with CCWB and under the supervision of Child Welfare Officers and DCWB Chairperson. They do not hold government regular staff status

### **DISTRICT CHILD PROTECTION COMMITTEE**

The 2009 '*Guidelines (Implementation) for Programmes on Protection and Promotion of the Rights of the Child*' provides for the establishment of DCWB District Child Protection and Promotion Sub-Committees (DCPC). The Coordinator of DCPC is the Child Welfare Officer, and its Secretary, the Child Rights Officer. The role of DCPC is to collect information related to the protection and promotion of children, establish referral mechanisms for interim protection and rehabilitation of children in need of special care and protection, provide emergency assistance, supervise Child Welfare Homes, prepare inventory of service providers and coordinate, supervise and monitor programmes related to children in the district, and implement DP-funded programmes. Their role is therefore very similar to that of DCWB as described in the Act/Rules.

***In practice,*** DCPCs were supposed to be established in all districts with CRO presence. However, especially in smaller districts, DCWB has extended its membership to government representatives and NGO service providers, thereby leading to a kind of merging of DCWB and DCPC – both in terms of membership and role. In larger districts, DCWB has retained its membership as per the Act and focuses on overall child rights promotion and coordination, while DCPC is more operational and active in the area of child protection.

VILLAGE/MUNICIPALITY/WARD

**CHILD PROTECTION COMMITTEE**

The 2009 *Guidelines (Implementation) for Programmes on Protection and Promotion of the Rights of the Child* provide for the establishment of Village/Municipality Child Protection and Promotion Committees (VCPC/MCPC) defined the role of VCPC/MCPC to collect data of children requiring special care and protection in the VDC/Municipality, prepare an inventory of organisations working for protection and promotion of child rights and coordinate and collaborate with them, develop community-based programmes in coordination with government agencies and DP's, coordinate, monitor and supervise programmes for children.

*In practice*, to date, VCPCs and MCPCs exist in 1191 VDCs/Municipalities in 50 districts, i.e. 30% of the 3,972 VDCs/Municipalities across the country. VCPCs are chaired by VDC Secretaries and MCPCs by Municipal Executive Officers, and perform tasks as per the 2009 Guidelines

## SERVICES

Most child protection services are implemented by local NGOs, usually with funding from Development Partners, including UN and other multilateral agencies, bilateral agencies and INGOs. They operate a wide range of prevention and response programmes and services, mostly issue-based. As there are no common standards for service provision, except for Child Welfare Homes, thus the quality of services is not ensured. Accreditation and monitoring of residential facilities is weak and non-existent for NGO service providers.

Available services are fragmented, vary in quality with minimal state oversight, and generally focus on rescue and rehabilitation rather than prevention or longer-term care with inadequate coverage. There is no clear criteria governing service provision which appears to be largely based on availability with irregular, to no follow-up.

**Prevention** focuses on awareness-raising and communication campaigns at the community level and among local officials, and response on rescue, rehabilitation and reintegration of children victims of all forms of violence. In terms of **services**, NGOs provide shelters, psychosocial counselling, medical care, legal aid, support for formal education, non-formal education, vocational training/apprenticeships, and income generation – for older children or families of younger children. Few programmes focus on deinstitutionalisation, early detection and intervention, including family support services and family-based alternative care, or similar services to support reintegration over an extended period of time. Though some family-based options exist, **residential care** is the dominant response and often becomes the permanent solution.<sup>10</sup>

**Government services** are focused on ‘hard’ interventions, i.e. health, education, justice, birth registration, certification of status (abandonment, single and double orphan hood, and relinquishment), Child Helpline, as well as referrals to NGOs for direct services. However, there is confusion regarding statutory powers, roles and functions. Recent online survey findings highlight stark discrepancies on the scope of services provided by statutory actors, including varying perceptions on what is authorised and widely disparate practices on care and custody matters: removal of children from biological families and a range of alternative care settings (kinship care, foster care, NGOs and child welfare homes), placement of children in different types of care, approval of legal guardians and domestic adoption. Moreover, there are slight variations on the scope and array of services provided by the same Government actors.

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10 Child Welfare Homes are often funded by private donors and small associations abroad, as well as from fees paid by volunteers who work in ‘orphanages’ for short periods of time.

DCWBs manage a small District Child Emergency Fund to provide an emergency response to cases that are reported to them. They organize the rescue, family tracing and reunification and/or referral to NGO service providers. The Fund allows them to pay for transport, food and accommodation for a few days, emergency medical care and a one-time (small) lump sum for education and/or livelihood. DCWBs do not use social workers or psychosocial counsellors in these processes, unless they refer children to NGO service providers, so assessment and planning case management steps are very basic. DCWBs do not provide long-term reintegration services and do limited or no follow-up on cases once they have provided the emergency response and reunified the child with family, placed him/her in alternative care or referred him/her to an NGO.

Overall there are no cross-sectoral standards and specific procedures with regard to the management of cases of children in need of care and protection – whether they are victims of violence, abuse, neglect or exploitation, deprived of parental care or at risk. Flows, processes and accountabilities governing case management are not clearly defined between and across sectors for: detection/identification, reporting, rescue, verification, assessment, planning, referrals, follow up, review and closure, best interest determination, care and protection measures, service provision, case documentation and record-keeping. While some partial standards and procedures exist with respect to *alternative care*, there are salient gaps concerning family preservation, family-based care, domestic adoption, best interest determinations, role of CWOs in child welfare home placements, periodic reviews of children in care, and response to all forms of violence occurring in child welfare homes. The Ministry of Women Children and Social Welfare recently initiated comprehensive guidelines governing safe rescue of children, best interest determinations and case

management. While this signals a much needed step forward towards translating policies into action, operational bottlenecks persist.

Linkages between the security/justice system and the child and family welfare system are often weak. Cases are rarely referred to government services, including: health (free medical care), district legal aid committees (free legal aid), education (scholarships) or local development (social protection/income generation) and NGOs usually provide these services.

## **ROLE OF LOCAL GOVERNMENT**

Local government bodies also play a social welfare role: CDOs disburse district funds to support children in need of care and protection; CDOs (or CWOs) are also mandated to support children deprived of parental care; DDC/VDCs are mandated to carry out activities regarding the protection of orphans and wiping out of harmful social practices for the protection of girls and women; VDCs are mandated to register births and maintain an inventory of helpless, orphaned and disabled children with the village development area and make appropriate care arrangements VCPCs/MCPCs, collect data on orphaned and conflict affected children, children with disabilities, other children at risk and need of special protection in the VDC, coordinate and refer children to service providers as well as use block grant funds to support child protection activities; LDOs run a number of economic/livelihood programmes, including social protection schemes although they have yet to target children and families at risk.

As per the 2012 Standards for Operation and Management of Residential Child Care Homes, VDC Secretaries and

Municipal Executive Officers have the authority to recommend admission of a child to a Child Welfare Home. As per CCWB instructions on requirements to open a Child Welfare Home, VDC Secretaries and Municipal Executive Officers also have authority to recommend initial and renewal of accreditation of a Child Welfare Home, prior to recommendation from DCWB or CCWB and registration with the District Administration Office.

## **INFORMAL SYSTEMS | COMMUNITY CHILD PROTECTION SYSTEM<sup>11</sup>**

Community actors play an instrumental role in child protection:

- Raising awareness on issues, laws and services
- Influencing social practices and behaviour
- Detecting and receiving reports of vulnerable children
- Deciding actions to be taken, including referrals
- Bridging gaps between communities and the formal system: report crimes, access social services; follow up responses from the justice system

Generally communities decide whether to handle child protection violations themselves, report cases to CBOs/NGOs or to local government authorities (in most cases the police).

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<sup>11</sup> Community child protection systems refer to traditional, 'spontaneous' ways used by community members – children, women, men, relatives, neighbours, traditional and religious leaders and helpers, teachers, health workers, etc. – to address/to cope with child protection issues, without any external intervention (i.e. 'endogenous').

The role of the community can advance, or oppose the best interests of children:

Advancing best interests: children deprived of parental care are taken care of by relatives or neighbours; reporting abuse cases to CBOs/NGOs; emotional/financial support to victims; defending wrongly accused who is facing criminal justice.

Against best interests: children in the care of relatives or neighbours are neglected, abused, exploited for domestic labour, or sold into forced marriage; settlement of cases that do more harm to the child; blocking access to the formal system; stigmatising victims of sexual violence; not intervening in cases of child labour, child marriage and violent discipline, etc.

## RECOMMENDATIONS

### I. Carry out **phased reforms of the social welfare sector**:

- Phase 1 (immediate – within a year): Clarification of roles of existing structures and staff.
- Phase 2 (medium-term – within 2 to 5 years): Develop short, medium and long term restructuring plans

*Short term plan*: incorporate child protection in job descriptions of existing personnel, including health and education. Agreement with primary service providers (NGOs) for case management.

*Medium term plan*: assignment of additional personnel; case-management through para-social workers

*Long term plan*: Recruitment of adequate coordination,

monitoring and professional social workers with local and national government budget at all level restructuring plan (CP Structure)

- Phase 3 (longer-term – within 5 to 7 years): Implementation of long-term structural plan
  - Incorporation of child protection in all technical and university degrees in social work and psychology and development of specialisation in child protection.
- II. Taking into account social protection, local governance and informal community-based systems, develop a **strategic framework governing a more flexible and expansive social welfare sector** outlining and clearly defining the child and family welfare roles and functions of the full spectrum of actors with respect to preventing harm, mitigating effects of risks, and responding to child protection violations along the entire continuum of care and protection.
- III. Allocate adequate numbers of **qualified human resources to MoWCSW, DWC and WCO**: (i) revise job descriptions to include child protection; (ii) assign additional personnel (as relevant) outlined in the O&M Survey to child protection; (iii) recruit professional social workers at district and VDC/ Municipal level supported by Government budgets; and (iv) clarify roles, specific functions and linkages within the social welfare sector in order to avoid overlaps and duplication.
- IV. **Alternative Care**: a) ensure that new Alternative Care Guidelines will include procedures for family preservation and support to prevent institutionalisation and separation, as well as facilitate de-institutionalisation, detection,

reporting, case management and standards for service provision not only for children at risk and deprived of parental care, but also for child victims of abuse, neglect and exploitation; (c) strengthen gate-keeping measures for residential care and standards for service providers; (d) establish partnerships with select district NGOs to support standardisation of case management; and (e) establish monitoring mechanisms to enforce Child Welfare Home standards, outsourcing to a professional corps of contracted social workers when required.

**V. Services:** (a) establish minimum standards for services, including those of social workers and psychosocial workers ; (b) establish social welfare services (services required for prevention, early intervention and rehabilitation) and identify government agencies responsible for the provision of such services (iii) select, accredit and monitor select NGO service providers in each district, to provide services required for prevention, early intervention and rehabilitation; (c) establish partnerships and referral mechanisms with NGO and government services to ensure that the whole continuum of services is available in each district; (d) take existing family support programmes to scale; and (e) create flow charts to improve access to services along the continuum of care and protection (f) harmonize case management system, defining roles of relevant (government and non-government agencies) for detection, rescue, response and closure of cases.

**VI. Strengthen the informal sector as the first line of protection for children** via promoting community dialogues, empowering communities to better detect and report child protection cases, building community trust

in the formal system, and reinforcing linkages between communities and the formal sector.

VII. Develop a **resource mobilisation strategy** that takes into consideration funding schemes and budgetary allocations for social protection, GBV and local governance. Allocations earmarked for MoWCSW, CCWB and local committees should support value added functions and interventions, including boosting convenor roles at national and local levels.

VIII. **Mainstream child protection** in: (i) pre-service training of government personnel/civil servants by the Nepal Administrative Staff College; (ii) the training of Local Development Officers, VDC Secretaries and Municipality Executive Officers, as well as of Social Mobilisers; (iii) educational materials and orientation modules for participants in Citizens' Awareness Centres (CAC), Ward Civic Forum (WCF) and Integrated Planning Committees (IPC); (iv) LGCDP/CFLG data collection, planning and monitoring tools; (v) guidelines for local planning processes, LGCDP/CFLG and 'Local Body Grant Implementation Procedures'.

## **2.3 JUSTICE FOR CHILDREN**

### **STRUCTURES MANDATES and FUNCTIONS**

The Justice Sector plays a crucial role in preventing and responding to a range of child protection issues, from community to district and national levels, across all situations. 'Justice for Children' aims to ensure that children are better served and protected by both formal and informal justice systems – spanning across the arenas of criminal justice, civil/family

justice, administrative justice and informal justice. To date, juvenile justice – has focused on children in conflict with the law, has dominated the justice agenda. ‘Justice for Children’, however, calls for a much wider lens – criminal justice.

<b>Intersectoral</b>	<b>Juvenile Justice Coordination Committee (JJCC)</b>	Functions: strengthen the juvenile justice system through advice to the government on legislation and policies, coordination with NGOs, capacity building, curriculum development, monitoring and evaluation; oversee Juvenile Benches; collect and maintain information on cases of juveniles in conflict with law
<b>Intersectoral</b>	<b>Legal Aid Committee</b>	Functions: determine Legal Aid Policy and Programme; supervise and control the performance of District Committees; provide legal aid grants to District Committees; make funding arrangements for legal aid
<b>Ministry of Home Affairs</b>	<b>Law Enforcement</b>	<p>Total 60,000 police personnel in Nepal. Police stations exist in all district headquarters and most municipalities. WCSCs are responsible for handling both CICT as well as victims, established in all 75 districts, in the police station of district headquarters, to varying degrees. Some police stations have designated Women’s and Children’s Service Center , some do not.</p> <p>Functions: prevent and investigate crimes committed against and allegedly by children; patrolling and surveillance; receive and follow up on complaints; conduct arrests, provide security and protection measures; collect data on children; abide by JJ procedural rules</p>

<b>Judiciary</b>	<b>District Court</b>	Functions: adjudicate criminal and civil cases; may grant domestic violence Protection Orders including for minor children of victim; may order victim compensation and medical treatment; may determine custody, visitation, restricted contact, property issues; may enforce children's rights stipulated in the Children's Act by issuing an order, direction or writ; may issue order, direction, writ and decide compensation in cases where a person is aggrieved as a result of infringement of children's rights; abide by JJ procedural rules
	<b>Juvenile Benches</b>	Established, to various extents, in 64 districts with child psychologists and social workers. A full Juvenile Bench is supposed to have (i) the following personnel with specialized training: judges, child psychologists, social workers and lawyers, (ii) child-friendly room and a Closed Circuit Television (CCTV), and (iii) a District Juvenile Justice Coordinating Committee (DJJCC), including members from the same sectors as the national JJCC. Functions: adjudicate cases involving children in conflict with the law in a child friendly manner, in accordance with Juvenile Justice procedural rules including requirements for decisions which should be given to the child
<b>Office of the Attorney General</b>	<b>Attorney General</b>	At least one prosecutor in each Appellate and each District Court. Functions: chief legal advisor to and represent GoN, inquire into and give directions on complaints alleging any person held in custody has not been treated humanely or prevented from meeting relatives or legal representative

<b>MoWCSW</b>	<b>Child Correction Homes</b>	Three Child Correction Homes: in Bhaktapur, Biratnagar and Pokhara, construction of one more underway in Nepalgunj for: (a) Children accused of any offence and on remand pending investigation or adjudication; (b) Children sentenced to imprisonment; (c) Children addicted to narcotic drugs; (d) Child runaways; (e) Children associated with or dependent upon persons involved in immoral activities; and (f) other categories of children as prescribed by GoN.
<b>NGO</b>		Some NGOs/HRO visit police detention centres, interview children, advocate for their release, provide legal aid and medical care as needed, etc. Some conduct orientation/advocacy sessions with local security and justice officials on child rights and child-friendly procedures in the justice system, as well as advocacy at national level.
civil justice		
<b>Judiciary</b>	<b>District Court</b>	Functions: adjudicate criminal and civil cases; may grant DV Protection Orders including for minor children of victim; may order victim compensation and medical treatment; may determine custody, visitation, restricted contact, property issues; may enforce children's rights stipulated in the Children's Act by issuing an order, direction or writ; may issue order, direction, writ and decide compensation in cases where a person is aggrieved as a result of infringement of children's rights; abide by JJ procedural rules.
administrative justice		

<p><b>National Human Rights Commission (NHRC)</b></p>	<p>NHRC has a Children’s Desk, which is not part of the system that monitors incidences of violations and proposes recommendations to the GoN. Under the NHRC, the Special Rapporteur on Trafficking reports on the status of trafficking in persons and coordinates with civil society and other human rights organizations.</p> <p>Functions: monitor child rights violations generally and mandated to receive individual complaints on child rights violations; conduct inspections and monitoring of prisons, other GoN agencies, public or private institutions or any other place for the protection of human rights, and to provide necessary suggestions or directives on improvements to be made for the protection of human rights; conduct investigations with the permission of the court concerned in any ‘sub-judice’ case in which claims involving human rights violation have been made; monitor the implementation status of the prevailing laws regarding human rights</p>
<p><b>National Women’s Commission</b></p>	<p>Functions: receive complaints on domestic violence and follow up with services and local authorities; maintain database of GBV cases</p>
<p><b>National Dalit Commission</b></p>	<p>Functions: receive complaints relating to caste based discrimination and follow up with local authorities</p>
<p><b>Domestic Violence Complaint Hearing Body</b></p> <p><b>(National Women Commission, Police office, government- local body, court)</b></p>	<p>Functions: receive and register complaints relating to domestic violence; conduct a confidential inquiry with the victim; request a hospital or health centre to provide medical exams in case a complaint alleges physical harm or mental torture to the victim; if necessary provide security for victim or his/ her dependent because of risk of physical harm or mental torture during the processing of the complaint.</p>

<b>Ministry of Labour and Transport Management</b>	<b>District Labour Office</b>	Functions: receive complaints on punishable offences under the Child Labour Act; power to impose punishment for violations under the Child Labour Act and Rules; conduct (unannounced) inspections; order employer to remove child from labour situations; issue orders and sequester facilities for 6 months for lack of compliance.
<b>Ministry of Home Affairs</b>	<b>Chief District Officer (CDO)</b>	Functions: adjudicate bonded labour cases; decide certain cases related to Birth Deaths and Other Events Registration Act; arrange for minor's care and maintenance from the income of state trust and regular income source; power of original jurisdiction and may issue an Order of Detention for certain offences under the Some Public Crimes and Punishment Act
<b>Ministry of Federal Affairs and Local Development</b>	<b>DDC/VDC/MDC</b>	Functions: receive complaints relating to domestic violence, caste based discrimination; may conduct reconciliation in DV cases or ensure appearance of alleged perpetrator for justice proceedings; forward complaints
	<b>Arbitration Board</b>	Arbitrators shall, to the extent possible, facilitate negotiation and compromise to be reached by parties; if compromise not reached, Arbitrators shall exercise jurisdiction
informal justice		
<b>DWC</b>	<b>Paralegal Committee (PLC)/GBV Watch Groups</b>	PLCs fall DWCs and are being internalized in Women's Federations (Village Cooperatives, Ward Committees and Groups) as GBV Watch Groups. More than 1000 VDCs where PLCs have been formed and functional. PLC/GBV Watch Groups raise awareness, detect, report, refer, monitor and follow up on child protection cases.

<b>Communities</b>	Community actors mediate disputes locally outside of the formal system. Communities tend to settle cases of sexual abuse informally through monetary compensation or marriage of the victim with the perpetrator. Though the intention is to prevent shame and loss of honour among families and communities, these traditional actions violate children's rights. Communities also act as a bridge between the community and the formal system in the reporting and response to complex or criminal cases, in particular with regard to reporting to the police and following up on the response from the justice system.
<b>General</b>	
<b>Judicial Council</b>	Makes recommendations on judicial appointments, transfers, discipline and dismissal, and other matters
<b>National Judicial Academy (NJA)</b>	Semi-governmental body in charge of training judges, other court personnel, prosecutors, lawyers, police, as well as CDOs in their capacity as quasi-judicial authorities.
<b>Nepal Bar Association (NBA)</b>	Chapters in all 75 districts. Provides legal aid for the poor and maintains Women Lawyers Centres in 23 districts. All licensed lawyers are NBA members including court-appointed lawyers and members of Legal Aid Committees.

*\*Note: non exhaustive list of justice structures, actors, powers and functions*

## SERVICES

The Security and Justice sectors extend a **broad range of justice services** aimed at ensuring: public safety, security of property, maintenance of law and order, observance of human rights, legal redress and access to justice. Services include but are not limited to: legal advice, legal counselling, legal representation, legal services, law enforcement, patrolling and surveillance, crime investigations, adjudication, mediation, reconciliation, law enforcement, birth registration and certification, human rights investigations, victim witness protection services, victim compensation, care, maintenance and custody orders and inheritance protection. For the most part, justice services target the general population, though there are some justice services, legal remedies and methods specific to children pursuant to the Children’s Act, Children’s Rules, Domestic Violence Act, Child Labour Act, Child Labour Rules and Juvenile Justice Procedural Rules.

There has been a disproportionate emphasis on criminal justice, in particular juvenile justice. Yet existing legal provisions and basic standards have not been fully implemented due in part to under-resourced Juvenile Benches, Police WCSCs, Attorney’s Offices and Legal Aid Committees. Existing child-friendly services and facilities are not used for all children who come in contact with law. Until 2010, the Chief District Officer handled all public offenses, which represented the majority of cases of children in conflict with the law, so few cases went through Juvenile Benches. Most CCTVs are not functioning due to power shortages or lack of technical capacity among court personnel. Remuneration for social workers, child psychologists are paid by JJCC based on number of case referred by court but these services are not institutionalised.

There are no procedures, diversion mechanisms, socio-educative measures, restorative justice as alternatives to

detention. No children are imprisoned in adult jails but they are held in police custody for indefinite periods while awaiting trial and are often mistreated. Child Correction Homes are under pressure to keep up with the inflow of juveniles.

Access to the formal justice system is limited due to the distance and costs involved, lengthy processes, as well as lack of trust in the justice process. Often victims' access to the formal justice system hinges on the assistance of a CBO/NGO, who bridges otherwise insurmountable barriers. Therefore, out of court settlements and alternative dispute resolution mechanisms, including community mediation, are preferred. Many informal justice mechanisms operate in Nepal, but few are linked to the formal system and they tend to mediate cases that should be settled in court, including child rape cases.

## RECOMMENDATIONS

- I. Conduct a participatory sector-wide Justice for Children assessment to improve understanding of justice dimensions specific to children across criminal, civil, administrative and informal justice spheres with a view towards mainstreaming children's issues as a cross-cutting priority in broader rule of law and justice sector reform initiatives.
- II. Enforce existing legal provisions and safeguards relevant to justice for children<sup>12</sup>, namely investigation and prosecution of *all* crimes against children, juvenile justice procedural rules, victim compensation, care, custody and protection orders, victim protection measures, safeguarding property of children without parental care,

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<sup>12</sup> In accordance with the CRC, international standards and additional guidance including: UN Common Approach to Justice for Children, 2008; UN Guidelines on Justice in Matters Involving Child Victims and Witnesses; UN Rule of Law Indicators, 2011; UNDP Programming for Justice: Access for All; A practitioner's guide to a human rights based approach to access to justice, 2005

- legal representation for children in conflict with the law, monitoring child rights violations and follow up on individual complaints, workplace inspections and removal of children engaged in labour, and enforcement of rights stipulated in the Children’s Act.
- III. Establish clear linkages between justice and social welfare systems at all levels of the continuum of care and protection, including well-defined roles of social welfare professionals at all stages of the justice process
  - IV. Develop and implement child-friendly and gender-sensitive pre and post-trial procedures, namely child-friendly interview and interrogation rooms and child-friendly courtrooms , including institutionalisation of services of psychologists and social workers in juvenile benches, as well as enhance coverage of Women and Children Service Centres within District Police Offices and increase number of female police officers handling gender-based violence cases including domestic violence
  - V. Resource and strengthen District Legal Aid Committees to provide quality and free legal aid to children at the community level in order to promote their access to justice, services, legal entitlements, and legal redress
  - VI. Enhance capacity of lawyers, other justice and law-enforcement professionals, as well as social workers to practice child-friendly and gender-sensitive approaches
  - VII. Establish a child-friendly complaints mechanism within the National Human Rights Commission – Dedicated Commissioner on Children – to receive, investigate, monitor and follow up on individual child rights violations
  - VIII. Assess the present condition and operation of correction homes, develop minimum standard and ensure improved services and rehabilitation programmes in Children’s Reform Centres
  - IX. Apply necessary measures to change public attitudes towards children in conflict in the law, law-enforcement

agencies, discriminatory attitudes towards child victims and promote disclosure, reporting and redress of cases of children’s rights violations.

## 2.4 OTHER SECTORS

### STRUCTURES MANDATES FUNCTIONS AND SERVICES

<b>HEALTH</b>	<p>[Ministry of Health and Population, District Offices of Health] Child protection is not incorporated in the Health Sector. Procedures for detection, treatment, reporting and referral of child abuse cases by health personnel do not exist. Health personnel are not trained to respond to child protection issues. Forensic equipment is lacking in health facilities. Child victims of abuse do not necessarily receive free medical treatment. Some district hospitals have one stop crisis management centre for GBV</p>
<b>EDUCATION</b>	<p>[Ministry of Education and District Education Offices] Teachers are not trained to detect, report or refer children in need of care and protection. Child protection is not included in Education policies, student curricula or teacher training. In addition non-formal education, vocational education and out-of-school children among major gaps within the education system. This is also not adequately reflected in the National Framework of Child Friendly School for Quality Education. Several programmes supported by NGOs such as ‘Learn without fear’ or ‘Learn with dignity’ are addressing violent discipline in schools and NGOs are supporting the implementation of ‘child-friendly schools’. Teachers are trained on child rights and child protection on an ad hoc basis by NGOs. Programmes to promote positive discipline and prevent violence in schools have limited coverage. The Education system manages a large number of scholarships for various categories of disadvantaged children. However, they do not always reach intended beneficiaries and no formal linkages have been established with DCWBs or WCOs to ensure that vulnerable children can access scholarships. Schools As Zones of Peace and Conflict-Free Classroom and government’s efforts to protect children’s right to education during strikes, conflicts and elections are among positive developments within education sector. At the same time Government has developed and endorsed educational support guideline for the freed <i>kam-lari</i> girls, however, the fund is not disbursed on time. In addition the government is undertaking actions to identify out of school children and bring them in through free and compulsory education.</p>

<b>LABOUR</b>	[Ministry of Labour and Employment] The Ministry of Labour and Employment has a small Child Labour section with two staff, which leads the elaboration, coordination and implementation of the National Plan on Child Labour. There are 10 Labour Inspectors for the whole country, and they monitor only the formal sector. The Ministry of Labour also works with employers to orient them on child labour laws. One weakness in the system is that legislation does not define who is responsible for intervening in case of abusive child labour, or who is charged with rescuing children and/or taking employers to court. Ministry of Women, Children and Social Welfare has made 10 points agreement to make the country <i>Kamlahari</i> free and ensure proper rehabilitation of freed <i>kamlaris</i> .
<b>ECONOMIC/ SOCIAL PROTECTION</b>	Besides economic programmes and social protection schemes run by MoFALD and its local branches, the Ministries of Commerce, Industry and Agriculture, including the Department of Cottage and Small Industries and their district branches, run income generation schemes and cooperatives in the districts. They have been included as implementers of the National Plan of Action for the Reintegration of Conflict-Affected Children (NPA-CAAC), thereby a first step towards the establishment of linkages between children at risk and government income generating programmes – for older children’s self-employment or employment of families of younger children. Social protection schemes are not explicitly targeting children at risk and their families and linkages between the social welfare system and social protection schemes are limited.

## RECOMMENDATIONS

- In addition to overarching legislation, policies and regulations related to child protection, each relevant sector needs to have child protection adequately incorporated in its own mandate, policies, procedures, plans of actions, budgets, qualifications, training and job descriptions of its human resources, information systems and monitoring and evaluation mechanisms, for the broad range of interventions – activities, programmes and services - to be developed and implemented.

## **HEALTH SECTOR:**

- The Health sector plays a key role in child protection, in particular: with regard to response detection and treatment of child victims of abuse, especially physical or sexual; to report such cases to competent authorities; to refer them to social services; and provide medical certificates for access to justice;
- Record child abuse cases in Health Information Management Systems (HIMS);
- Report children who are abandoned at birth in health facilities to competent authorities to initiate tracing, assessment and placement services;
- Conduct medical age verification to ensure that child victims or in conflict with the law are treated as such throughout the criminal justice process;
- Apply child and gender friendly procedures when treating abuse victims. Universal and free access to health services also has an impact on prevention of child protection risks, because the cost of health care is often a trigger for family breakdown due to economic crisis;
- Mainstream child protection in national health policies (including compulsory free medical care for child victims of abuse and violence), health personnel training curricula, HMIS and job descriptions of all categories of personnel at every level: doctors, nurses, midwives, female community health volunteers, etc. based on their specific role with regard to child protection;

- Provide services to children from one stop crisis management centres.

### **EDUCATION SECTOR:**

- The Education sector is well placed to: play a key role in prevention, early intervention and response;
- With regard to prevention, ensure universal and free access to education is a key strategy to prevent children from getting into harmful situations;
- Schools should provide children with information about child protection issues, risks, rights, laws and services, as well as life skills, so that they can protect themselves;
- With regard to early intervention, scholarships should be provided to children at risk to ensure they go to school;
- With regard to both early intervention and response, teachers should detect children at risk or already in harmful situations and report/refer them to competent authorities and social services so they and their family can be supported;
- Education support to go back to formal school, non-formal education or apprenticeship/vocational training is also a key strategy for reintegration;
- Introduce measures to protect in education facilities. Educational facilities should be free of violent discipline, bullying and any form of abuse. This includes public and private schools, boarding schools and youth hostels;

- Quality education should also be accessible in all areas and scholarships be made available, noting clear distinctions between Child Welfare Homes that offer education and schools with residential facilities;
- Ensure child protection and minimum standard of operation in school hostels;
- Investigate and respond appropriately to cases of teachers and other school staff found to be sexually or physically abusing students.
- Mainstream child protection in: (i) national education policies (including the National Framework of Child Friendly Schools for Quality Education), codes of conduct and monitoring mechanisms; (ii) pre-service and in-service training curricula and job descriptions/ TOR of ECD facilitators, NFE facilitators, primary and secondary school teachers, Headmasters, School Management Committees, Parents Teachers Associations; (iii) education curriculum for primary and secondary level pupils and curricula for ECD parenting skills education; and (iv) education information system (for case recording);

#### **ECONOMIC/SOCIAL PROTECTION:**

- Social protection policies should: integrate strategies that target children at risk and their families – for early intervention or reintegration – and draw linkages with the social welfare system to ensure that children and families benefiting from social protection schemes are followed up by a social worker;
- At local level, social protection schemes (cash grants,

food for work, etc.) and livelihood schemes (start-up capital, cooperatives, micro-credit, poverty alleviation fund, etc.) should be accessible to families of children at risk or older children at risk who are identified/detected by VCPC at village level and DCWB/WCO at district.

## **LABOUR:**

- The number of Labour Inspectors needs to be increased and the scope of existing mandates expanded to cover the informal sector;
- Clear designation is required for a competent authority with the mandate to rescue children from unlawful employment and bringing employers to court in case of child labour law/rules violations;
- Strategic partnerships should be strengthened with private sector associations particularly the hospitality, transport and other relevant industries and employers should be oriented on child labour laws and monitored accordingly;
- Monitoring mechanisms for both formal and informal workplaces should ensure that children are not being employed;
- Labour market policies and strategies should be family-friendly and also ensure the inclusion of women, youth and other excluded groups;
- Access to the labour market is one critical measure to empower families to provide adequately for the protection, care and development of their children.

- Provide greater workplace protection for children of legal working age (14 to 18 years of age) to ensure they are paid minimum wages and that their occupational safety and health needs in the workplace are addressed and they are not engaged in hazardous tasks.

### **3. SOCIAL NORMS**

Over the past two decades, sweeping reforms in legislation, policies, institutions, mechanisms, and services have substantially improved the protection of children. However, violence in all its forms continues to be pervasive in all settings. This underscores the significance of promoting positive social norms – consistently upheld by stakeholders and with the participation of children – to decisively influence practices that prevent and respond to violence, exploitation and abuse directed at children, as well as the separation of children from families. For social change to be effective and sustained, it must be rooted in the local context, culture and community.

#### **3.1 POSITIVE PRACTICES**

Positive practices include proactive and responsive actions of individuals, groups and institutions<sup>13</sup> that lead to the fulfilment of children’s protection rights. Some positive practices witnessed include:

- Children who become deprived of parental care for any reason, are taken care of by relatives – uncles, aunts, older sibling, grandparents, etc. - who live in the same

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<sup>13</sup> This section focuses primarily on community positive practices as preceding sections highlighted institutional practices relevant to the protection of children across various sectors.

community or elsewhere, neighbours or other families in the same community or acquaintances outside of the community.

- VCPC/MCPCs, Child Clubs, PLCs/GBV Watch Groups, women's groups, surveillance groups, local CBOs and NGOs are disseminating information with the aim of changing practices on: the elimination of child marriage or *chhaupadi*, sending children to Child Welfare Homes, preventing trafficking and promoting safe migration through activities in 'source' areas.
- In a recent KAP study<sup>14</sup>, nearly half the VDC and district level key informant interview respondents, and the majority of district police representatives, indicated that levels of reporting of cases of violence against children have increased over the past five years, mostly due to increased awareness. Likewise the majority of district justice representatives and public attorneys state that the number of cases of violence against children coming through the courts has increased over the last 5 years, also due to increased awareness.
- In a recent KAP study, all respondents reported very high levels of confidence in knowing what to do when faced with violence against children. In general, after talking to the child, men appeared more likely to report the

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<sup>14</sup> KAP survey was commissioned by UNICEF in 2012 to assess knowledge, attitudes and practices towards violence and abuse, and the capacity of duty bearers to prevent and respond to the different forms of violence committed against women and children. The survey covered 750 respondents of each type (women 18-65 years, men 18-65 years and children 15-17 years) from 36 districts using structured interviews from the study areas. A total of 2250 women, men, girls and boys were included in the study.

incident to the police whereas women were more likely to talk to their parents and consult a health professional. More cases of violence against children were dealt with on average by stakeholders at district level compared to VDC level, including more cases of sexual violence and more specialised cases. Physical violence cases, mediation and reconciliation are more common at VDC level whereas more formal legal responses are more common at district level.

- According to a recent KAP study, the majority of caregivers indicated that children have opportunities to speak out at regular family meetings, and that children were taught a basic level of body awareness (*‘we teach children [to] say ‘no’ if someone wants to touch their body or private parts’*) and basic personal safety. The vast majority of FGD children and respondents agree that parents listen to children and take their views seriously.

### 3.2 HARMFUL PRACTICES

Harmful practices have a detrimental effect on children’s development and can expose them to (further) trauma, abuse, exploitation, neglect and violence. Common harmful practices include:

**Bullying:** Bullying has been identified as a serious issue among KAP survey respondents. 88.9% of district-level education representatives stated that at least some children in their district are bullied at school on a regular basis. Meanwhile 61.1% of girls and boys household questionnaire respondents, who have been to school at some stage, indicated that they have experienced physical

or psychological peer violence. Bullying of children at school is a major problem.

**Child Labour:** Most children in Nepal work in the informal sector, the majority in agriculture and domestic chores, and start helping their parents from the age of 5. Widely regarded as normal and necessary for economic reasons, communities are unlikely to intervene.

**Corporal Punishment:** Corporal punishment is widespread at home and at school, regarded as necessary by parents and teachers for a child to become a ‘good adult’. At home, this consists mostly of open-handed slaps or being hit with a stick. Discipline is cited as the main reason for using corporal punishment, although it is recognised as an ineffective discipline method compared to positive discipline techniques. Shouting at children appears to be more common than ‘*humiliation*’ or ‘*being made to feel worthless*’ both at home and at school. Sexual abuse and harassment occur at school and appears to affect both girls and boys equally.

**Discrimination:** Children are discriminated on the basis of gender, caste, ethnicity, religion, disability, economic status and HIV status. According to the 2012 CCWB State of Children Report, 67 cases were reported in 12 districts, out of which 19 were filed in court. According to a recent KAP study, nearly 40% of FGD children aged 7-14 believed that not all children are treated the same in their villages. Boys, richer children and younger children are perceived to be treated better. Poorer children, lower caste/ethnicity children (e.g. Dalit) and ‘undisciplined/disobedient/dishonest/notorious children’ are perceived to be treated worse.

**Domestic Violence:** Also affects children, especially as one out of four girls under 18 years old is married. 50% of women between the ages of 15-49 think that beating is sometimes justified<sup>15</sup>. Girls are reluctant to report abuse from their husbands and to separate from them because this would bring shame and loss of honour on themselves and their families. Furthermore, since most wives are financially dependent on their husbands, separation would bring economic problems for themselves and their children. It is also very difficult for divorced women to re-marry. Domestic violence often occurs when husbands are drunk. Children of the couple are also affected as witnesses of violence against their mother and often as victims themselves as they often get beaten. DV is generally resolved within the community and not reported to the formal system for various reasons: lack of knowledge of existing laws, justice processes, social services and reporting mechanisms, and/or the lack of availability, efficiency, transparency/accountability and accessibility of services in terms of distance and cost. In communities where awareness raising programmes are implemented, and NGO's/CBO's are assisting victims to access the formal system, the number of DV cases reported increases.

**Harmful Traditional Practices:** Child marriage is widespread and discriminatory, deemed 'normal' (though not necessarily good) and more acceptable for girls than for boys. Marriage once a girl reaches puberty is regarded as normal, especially for girls, in order to avoid pre-marital pregnancies and the resulting loss of honour, as well as to save money since the dowry will be more expensive for an older girl. Early marriage is also linked to traditional

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15 2010 Multi-Cluster Indicator Survey, conducted in Mid and Far West Regions

beliefs that one will not go to heaven if one dies without having a grandchild. Both practices of marrying children before they reach puberty and as soon as they reach puberty are on the decrease. However, child marriage in children's own initiation is increasing. The practice of *chaupadi* is widespread in the VDCs where it is culturally relevant and justified by religion, culture and notions of 'impurity'. This practice is particularly harmful in rural areas where girls are forced to live in cow sheds during menstruation, which exposes them to hazards such as cold temperatures, fires or snake bites. **Other harmful traditional practices** are often linked to gender and caste/ethnic discrimination and include dowry, bonded labour of children from specific ethnic groups (including *Kamalari*, *Kamaya*, *Haliya*, *Haruwa/Charuwa*), sexual exploitation of children from specific ethnic groups (*badi*), children 'offered to the gods', to live in temples, serve priests or to become a Kumari. Children are also can be accused of witchcraft.

**Out of Home Care:** Orphans are most likely to be cared for by their extended biological family either within or outside the community. However, there is a widespread perception that these children will not be treated as well as the biological children from the host family. In the event of re-marriage, children from the first marriage are most likely to stay with the new family, even though, once again, it is perceived that they will not be treated as well as children from the new marriage. Based on an analysis of 110 child protection cases, approximately 32 per cent of the cases are of children who were not living with their biological parents – for whatever reason – but were living with relatives or neighbours who were not treating them as their own children, out of a lack of material capacity to do so, or out of unwillingness to care for them. As a result,

these children were not going to school, were domestic workers in their guardian's house or another house, had run away and become street children, were abused as domestic workers and run away from their employer's house.

**Sexual Abuse:** Largely unreported and viewed as a private matter. Anecdotal evidence suggests that it occurs in all settings and is generally committed by somebody known to the child – family member, relative, neighbour, teacher and/or caregiver. Cases are often solved within the community through monetary compensation or marriage of the victim with the perpetrator, in order to avoid shame and loss of honour for the victim and to the family.

**Children Witnessing Intimate Partner Violence:** More than one fourth of the child respondents of a recent KAP study stated that, to their knowledge, their father beat their mother. A large proportion (65.3%) of women survivors of intimate partner violence stated that their children were present or overheard at least one violent incident; 66.1% of relevant household questionnaire respondents indicated that they saw or heard their father beat their mother.

While not necessarily indirectly harmful, some practices and actions of individuals, groups and institutions<sup>16</sup> can potentially hinder children's access to services and expose them to further protection violations.

**Reporting:** According to a recent KAP survey, respondents indicated an upsurge in reporting levels over the last 5 years including higher rates of prosecution. However, the low

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16 This section focuses primarily on community positive practices as preceding sections highlighted institutional practices relevant to the protection of children across various sectors.

level of reporting by both children and families is common, largely ascribed to personal and family shame and fear.

**Accessing Services:** According to a recent KAP study, respondents cited ‘enough’ free services available to help child victims of violence though many question the quality of medical treatment, psychosocial and economic support and safe places to go if children experience violence. While respondents revealed a high level of confidence in general to access existing services, in practice less than 40% of FGD children aged 12-14 years, stated that children use all or even some of the identified services.

## **RECOMMENDATIONS**

- I. Develop a **social change vision and strategy** focusing on 5 areas of strategic action: i) increasing knowledge and data collection; ii) strengthening the protective role of families; iii) strengthening the protective role of communities; iv) promoting meaningful child participation and empowerment for their own protection; and v) supporting public education and social dialogue. Positive attitudes, traditions, customs and practices should be upheld and reinforced.
- II. **Target stakeholders at all levels and across all sectors of society:** government authorities, civil society organisations, parliamentarians, political parties, media, universities, children, adolescents and youth through the education system, communities, including out-of-school children, adolescents and youth, women and men, traditional and religious leaders and helpers, through inter-personal communication, national, local and social media, as well as other means such as popular art forms.

- III. **Refine current IEC initiatives** to be more strategic, more systematic and more sustained recognising that social change goes beyond information dissemination, awareness raising and public education, as social practices are embedded in the complexities of continually evolving cultural practices. One off events or activities will not transform long held beliefs, attitudes and practices. Community dialogues on child rights are more useful, identifying positive and harmful practices aimed at raising commitments to change.
- IV. Identify change agents at local and national levels to **champion social change** recognising that gender inequality and caste/ ethnicity-based discrimination underlie many harmful practices perpetuated by communities, though known to violate laws, rules and policies.



