

A STUDY OF SITUATION AND POLICY GAP ANALYSIS ON ONLINE CHILD SEXUAL ABUSE IN NEPAL



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SITUATION AND POLICY GAP
ANALYSIS ON ONLINE
CHILD SEXUAL ABUSE IN NEPAL**



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महिला, बालबालिका तथा ज्येष्ठ नागरिक मन्त्रालय
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Acknowledgement

The government of Nepal has set its efforts to protect children from all forms of abuse and exploitation and has ensured the rights of children in line with the United Nations Convention on the Rights of the Child, 1989. The constitution of Nepal has assured the rights of children under fundamental rights by including different aspects of child rights for instance; rights to survival, protection, development, and participation. As a result, child-related indicators have been improving strikingly and there are laws, policies and national plans to address the issues of children.

However, children are massively using different techniques such as mobile and computers, which has resulted in different issues of online child protection. At present, children are abused Online/internet and this emerging issue is a challenge not only to the parents but also to the schools, communities, and the whole country. The issue of online sexual abuse on children has been regarded as one of the serious concerns of child protection and for that, different awareness-raising programs for children, parents and other concerned stakeholders have been implemented. The internet has introduced different harmful trends which violates the right of the children such as; online abuse, bullying, exposure to child sexual abuse materials, etc. Many surveys have been conducted on different issues of children like child right, education and physical and mental health. Yet, there are very few studies about the gaps in policy and laws related to online child sexual abuse in Nepal. After COVID-19, children are using gadgets for education and entertainment purposes but they are less aware of the risks of the internet due to which, children explore different sites without considering the consequences. On top of that, the different kinds of cybercrimes that are arising are not significantly addressed by the existing laws and policies of Nepal.

This study is useful because Voice of Children has analyzed the gap in national policy and laws related to online child sexual abuse in Nepal. It has also identified different new forms of online sexual abuse which are less addressed by the national laws and policies of our country. We hope that the findings of the report will assist in developing and reformulating the policy and laws which address online sexual abuse on children and adolescents.

Indra Devi Dhakal

Member-Secretary

National Child Rights Council
(NCRC)

"सामान्य अवस्था वा कोभिड महामारी: बाल अधिकारको संरक्षण हामी सबैको जिम्मेवारी"

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Acknowledgment

The rapid development and growth of information technology has made a life of people very convenient. However, it has also shown a great impact on criminal investigation due to the increasing number of criminal activities through the misuse of those technologies. The trend of crimes has changed a lot over time and it is a great challenge to keep track of it. The existing laws and policies are not sufficient to address the crime of online child sexual abuse.

In order to investigate such crimes and prevent them, the mechanism within the police has been modified and strengthened to carry out cybercrime awareness, cyber security, and cybercrime investigation. During the eighth amendment of Police Regulations, B.S 2077, the cyber bureau provision was included and has been working since then. One of the major objectives of the bureau is to coordinate with different national and international organizations and security agencies to exchange information related to security threats and their challenges. In this regard, the cyber bureau is closely working with Voice of Children for the prevention of online child sexual abuse through different awareness-raising campaigns.

Voice of Children has shown a continuous effort to prevent this emerging issue of child protection and in order to assess the current situation; this Situation and Policy Gap Analysis on Online Child Sexual Abuse in Nepal plays an important role. This survey also includes the review and policy analysis of various national and international legal provisions to identify the policy gaps relating to online child sexual abuse which can be helpful for the development and amendment of the related policies and programs of the concerned bodies. Nepal Police Headquarters, Cyber Bureau would like to acknowledge VOC including the research team for this valuable document. We also like to thank VOC for working with us and for their initiative to stop online child sexual abuse.

We hope this study will be a solid document to raise the issue of online child sexual abuse and be useful to identify the gaps in the existing laws and policies related to cyber safety.



Nabinda Aryal
Senior Superintendent of Police (SSP)
Nepal Police, Cyber Bureau



Acknowledgment

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Stopping Cybercrime against children: More Safety and protection on the Internet is a four-year project, 2021 to 2025, financed by Kindernothilfe e.V. Germany in cooperation with the Federal Ministry for Cooperation and Development (BMZ). The Project envisions improved protection of children and adolescents from Cybercrime. It ensures their meaningful participation through the functional child protection structures, with qualified and responsible child protection actors and civil society cooperation at the regional and global levels. In Nepal, Voice of Children (VOC) is our main partner. The project is aimed at building the capacities of community-based child protection mechanisms (i.e. *municipality child rights committee, ward level child rights committee*), and to contribute to the enhancement of country laws, and guidelines towards improved protection and for better justice to the children.

Due to the COVID-19, pandemic, all the children are living in a family and some of them study using alternative methods online but the majority of children do have not access to the internet. The children who have access, are also vulnerable to online abuse. In recent years, the use of the internet is increased by children & young people and there are most exposed to online harm for instance exposure to sexual content, sextortion and cyberbullying. Nowadays on the other side children are more vulnerable to digital violence/sexual abuse. Moreover, children's knowledge of new technologies and the ease with which they access and use such technologies often exceed the knowledge and capacity of their parents.

Voice of Children has conducted a study on policy gap in the current laws in Nepal on the online child sexual abuse. The main aim of this research is to advocate and lobby to review, revise and amend the current laws and policies. The study findings also aimed to contribute to better and informed decision making of the legislative members, and to contribute and influence policymakers on the need to provide quality care to children affected by online sexual abuse.

With utmost pride, KNH Germany congratulates and commend that team of Voice of Children (VOC), the entire study team and everyone who was involved in developing this important research. We hope this report and initiative will provide useful insights to all of us working to combat online child sexual abuse in Nepal.

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बाल आवाज VOICE OF CHILDREN

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Acknowledgment

In this digital era, the rapid development of new technology has changed the lifestyle of people and their work approach and children are becoming more familiar with mobile phones and the internet. Along with it, the ratio of children's vulnerability is increasing tremendously through the violation of child rights in a different manner such as; Cyber Bullying, Cyber Stalking, exposure to Child Sexual Abuse Materials, etc.

The research has drawn upon the knowledge, attitude, and experience of around 600 children, stakeholders, and duty-bearers all adding to the strength of its findings, conclusion and recommendations. During the research, we identified huge gaps in the data related to online sexual abuse, knowledge of stakeholders about it and legal Provisions.

Voice of Children would like to sincerely thank the children who participated in the study and for sharing their experiences and knowledge. We are also grateful to the parents of our respondent children for their consent. Our special thanks to the member of Government bodies, Schools, Civil Society Organizations and stakeholders for their valuable time and their insights on the issue based on their professional experience.

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Voice of Children is grateful to Kindernothilfe and BMZ for the financial and technical support for the study. We hope this research will provide some useful insight to all of us working to prevent online child sexual abuse.

Krishna K. Thapa
Executive Director
Voice of Children

ABBREVIATIONS

Apps	Applications
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIB	Central Investigation Bureau
CID	Crime Investigation Department
COE	Council of Europe
CRC	Convention on the Rights of the Child
CSA	Child Sexual Abuse
CSAM	Child Sexual Abuse Material
CSEA	Child Sexual Abuse and Exploitation
CSEC	Commercial Sexual Exploitation of Children
CSEM	Child Sexual Exploitation Material
CSOs	Child Sexual Offenders
CWIN	Child Workers in Nepal Concerned Centre
ECPAT	End Child Prostitution and Trafficking
EU	European Union
FGD	Focus Group Discussion
FWLD	Forum for Women, Law and Development
GoN	Government of Nepal
IACIS	International Association of Computer Investigative Specialists
ICTs	Information and Communication Technologies
IIOC	Indecent Images of Children
ILO	International Labour Organisation
INTERPOL	International Criminal Police Organization

ISP	Internet Service Provider
IWRAW	International Women's Rights Action Watch
KII	Key Informant Interview
LDCA	Live Distant Child Abuse
LGBTIQ	Lesbian, Gay, Bisexual, Transgender, Intersex and Queer and questioning
MCCD	Metropolitan Crime Control Division
MOLJPA	Ministry of Law, Justice and Parliamentary Affairs
MOWCSW	Ministry of Women, Children, and Social Welfare
NBA	Nepal Bar Association
NGOs	Non-Governmental Organizations
NHRC	National Human Rights Commission
NTA	Nepal Telecommunications Authority
OAG	Office of the Attorney General
OCSA	Online Child Sexual Abuse
OPMC	Office of Prime Minister and Council of Ministers
SAARC	South Asian Association for Regional Cooperation
SAIEVAC	South Asia Initiative to End Violence against Children
SECO	Sexual Exploitation of Children Online
SOP	Standard Operating Procedure
TA-CSA	Technologically Assisted- Child Sexual Abuse
TU	Tribhuvan University
UN	United Nation
UNICEF	United Nations Children's Fund
VOC	Voice of Children
WCSD	Women and Children Service Directorate
WHO	World Health Organization
Wi-Fi	Wireless Fidelity

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EXECUTIVE SUMMARY

Internet has revolutionized the way people connect globally, nevertheless the other side of the internet has invited online child sexual abuse. With the growth of technology and the internet, children are increasingly vulnerable to online abuse and exploitation. This research has found various forms of online child sexual.

Although Nepal has taken several measures to tackle the issues of online child sexual abuse by various legislative frameworks including National Criminal Code 2015, the Act Relating to Privacy 2018, Act relating to Children 2018, and the Electronic Transaction Act 2008 etc, it appears that there need constructive and consolidated form of legislative framework to ensure online child sexual abuse are addressed clearly, unambiguously and consistently. The research also noted various challenges in enforcing existing laws due to a lack of resources, awareness, and training for law enforcement agencies. Apart there is a lack of awareness among parents, caregivers, and children about the risks of online child sexual abuse and protecting themselves. In this connection, existing legal framework on online child sexual abuse appears to be insufficient.

This research recommends several initiatives to address gaps identified. The government of Nepal needs to develop a comprehensive national strategy to prevent and respond to online child sexual abuse, with a focus on raising awareness and capacity building of law enforcement agencies, child protection agencies, and other stakeholders. The legal framework needs to be strengthened, and specific laws should be developed to address online child sexual abuse. Parents and caregivers need to be provided with education on how to keep children safe online.

In conclusion, online child sexual abuse is a growing concern in Nepal, and it is crucial to take steps to prevent and respond to this issue. The government and other stakeholders need to work together to raise awareness, strengthen the legal framework, and provide education to parents and caregivers on how to keep children safe online.

INTRODUCTION

1.1 Background

Children are the future of a nation. They need to be carefully and lovingly nurtured. However, in recent years, children are becoming vulnerable to online child sexual abuse (OCSA) with the rapid development of information and communication technology (ICT) and children's access to them.

A recent report of Nepal Telecom confirms that out of the total population of 29.95, nearly 91% had access to fixed broadband; an additional 38.6% were accessing the internet using their mobile data subscriptions and almost 12.052 million of them with 3G services or better.¹ Although there is a high disparity in penetration rate between the rural and urban areas, mobile service has reached 77 districts of the country and broadband access is expected to reach 10% of the population by 2024.²

It is self-evident that the use of technology or the internet has become the agent of sexual abuse of child. These forms of modern development have been producing, disseminating and sharing materials related to child sexual abuse. Technology or the internet has dramatically changed the lifestyle of human being and society dramatically around the world. The transformation of this scale has become possible due to fast-paced technological innovation/development and widespread and increasing accessibility of ICTs including high-speed internet and mobile devices with internet connectivity.³ This

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- 1 KEMP, S. (2022, February 15). Digital 2022: Nepal - *Data Reportal – global digital insights*. DataReportal. Retrieved May 1, 2022, from <https://datareportal.com/reports/digital-2022-nepal>
 - 2 DEVTEL, E. (2020, November 13). *High-speed broadband market gains momentum in Nepal. Developing Telecoms*. Retrieved May 1, 2022, from https://developingtelecoms.com/telecom-business/market-reports-with-buddecom/10280-high-speed-broadband-market-gains-momentum-in-nepal.html?fbclid=IwAR3oWYRWRFvH-G1miFh_7gu-XzzGO62mPNI3Kqifoea2cAEhLVIvnLGYTvQ
 - 3 UNITED NATIONS OFFICE ON DRUGS AND CRIME. (2015). *Study on the Effects of New Information Technologies on the Abuse and Exploitation of Children* UNITED NATIONS New
— *Situation and policy gap analysis on online child sexual abuse in Nepal*

development in the contemporary world has largely been seen as positive since it facilitates access to information and communication between people around the world. Among all, it has given multiple avenues of development of the children in their skills, knowledge and understanding. ICT is beneficial for children in terms of their educational, social and overall growth. Nevertheless, this development has not only exposed children to new risks, challenges for their safety, personal development, and well-being, but also increased potential risk of putting children into abuse, violence and harassment in one way or the other. In particular, there are remarkable cases to suggest that it has increased the risks for sexual abuse and exploitation in both online and offline settings.⁴ For instance, encrypted services and the development of the dark web, have allowed offenders to engage in child sexual exploitation and abuse in an environment of secrecy and relative anonymity, making abuse more difficult to detect and providing a context that enables ‘disinhibition’, perceived minimization of harm to the victim and normalization of the abusive behaviours.

While new technologies offer a myriad of opportunities for children, they also present new risks and threats.⁵ Increased accessibility and affordability of internet technologies and devices have also added vulnerability to children from possible abuse and exploitation. For example, applications (apps) and online games are readily available and accessible to children via different portable devices like smartphones. This facilitates the offender-victim communication whereby the offenders are anonymously able to reach hundreds of children at a single time, with minimal effort.⁶

York, 2015. Vienna.

Retrieved 2022, from https://www.unodc.org/documents/Cybercrime/Study_on_the_Effects.pdf.

- 4 UNICEF Innocenti. (n.d.). *Sexual abuse and exploitation of children through the internet and other information and Communication Technologies*. UNICEF. Retrieved April 23, 2022, from <https://www.unicef.org/research/sexual-abuse-and-exploitation-of-children-through-the-internet-and-other-information/>
- 5 *Sexual exploitation of children and information and Communication Technologies (ICTS)*. OHCHR. (n.d.). Retrieved May 1, 2022, from <https://www.ohchr.org/en/special-procedures/sr-sale-of-children/sexual-exploitation-children-and-information-and-communication-technologies-icts>
- 6 International Telecommunication Union, UNESCO, *Broadband Commission for Digital Development*. (2022). Unesdoc.unesco.org. Retrieved May 1, 2022, from <https://unesdoc.unesco.org/>

Popular ICTs such as mobile phones and the internet have become enablers and/or facilitators of sexual crimes against children, including the production and dissemination of child sexual abuse materials (CSAMs)⁷; the facilitation of child prostitution⁸, sexual exploitation; and the solicitation of children for sexual purposes (“grooming”).⁹A more recent trend in child exploitation is the commercialisation of child sexual exploitation through live distant child abuse (LDCA) also referred to as on-demand child sexual abuse, or cybersex trafficking through which perpetrators can directly abuse in real-time.

Internet technology and gadgets have altered communities all over the world due to their broad convenience, enhanced accessibility, and low cost. With cellular coverage exceeding 100% and internet penetration reaching 63%, Nepal has achieved amazing progress in digital adoption. During the COVID-19 outbreak, the country attracted two million new internet customers, according to the Telecommunications Authority. As reported by the Nepal Telecommunications Authority (NTA), between March and November 2020, 2.68 million individuals signed up for new internet connections. According to the NTA, in January 2022, there were 11.51 million internet users in Nepal. At the beginning of 2022, Nepal’s internet penetration rate was 38.4 percent of the overall population. According to Kepios data, the number of internet users in Nepal rose by 822 thousand (+7.7 percent) between 2021 and 2022¹⁰

As affirmed by the Committee on the Rights of the Child in General Comment No. 25, released in 2021, digital technologies present tremendous potential

unesco.org/ark:/48223/pf0000234674?posInSet=3&queryId=b69c1c5b-c4e1-4f6e-b105-b30b8a037170

7 Maud de Boer-Buquicchio. (2014). *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* (pp. 8). Paris, France: OHCHR. Retrieved May 2, 2022, from <https://digitallibrary.un.org/record/792635?ln=en>.

8 Maud de Boer-Buquicchio. (2014). *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* (pp. 9). Paris, France: OHCHR. Retrieved May 2, 2022, from <https://digitallibrary.un.org/record/792635?ln=en>.

9 Maud de Boer-Buquicchio. (2014). *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography* (pp. 10). Paris, France: OHCHR. Retrieved May 2, 2022, from <https://digitallibrary.un.org/record/792635?ln=en>.

10 Kemp, S. (2022, February 15). *Digital 2022: Nepal - datareportal - global digital insights. DataReportal*. Retrieved May 6, 2022, from <https://datareportal.com/reports/digital-2022-nepal>

to realize children's rights. This has become even more apparent during the COVID-19 pandemic and corresponding lockdown measures, during which digital technology was a lifeline for many children to continue to learn, play and socialize. At the same time, we know that perpetrators are using digital technologies to access children with negative intentions including sexual abuse. Year on year, there is an increase in reports of online child sexual abuse content. As digital technology becomes more ubiquitous, it is increasingly connected with cases of child sexual abuse and exploitation.¹¹

The National Centre for Missing and Exploited Children received 21.7 million complaints of suspected online child sexual exploitation and abuse in 2020, a 28 percent rise from 2019, following a 700 percent increase in the number of industry referrals of online child sexual abuse between 2013 and 2017¹² The ever-present nature of the digital environment, severe issues confronting child protection agencies globally, and the ongoing global COVID-19 epidemic make efforts to prevent online child sexual exploitation and abuse more imperative than ever.¹³

Potential offenders are able to gain enhanced access to victims and to child sexual abuse material through the use of ICTs, effectively enabling users to cover/hide their true identities, which increase their connection with the victims. It helps in the furtherance of activities like child sex tourists using chat rooms, message boards, peer-to-peer file-sharing servers, newsgroups and specialized websites to obtain information on potential victims and destinations, share stories, trade child sexual abuse material, and plan travels.¹⁴

Even though technology-enabled child sexual exploitation and abuse creates significant new issues, it is not necessarily a different kind of child sexual exploitation and abuse. Indeed, new data shows that “online engagement is

11 United Nations Children's Fund (2021) *Ending online child sexual exploitation and abuse: Lessons learned and promising practices in low- and middle-income countries*, UNICEF, New York

12 *A new typology of Child sexual abuse offending* - CSA centre. (2020). Retrieved May 7, 2022, from <https://www.csacentre.org.uk/documents/new-typology-of-child-sexual-abuse-offending/>

13 UNICEF. (n.d.). Retrieved May 7, 2022, from <https://www.unicef.org/media/113731/file/Ending%20Online%20Sexual%20Exploitation%20and%20Abuse.pdf>

14 *Study on the effects of new information technologies on the abuse and* Retrieved May 3, 2022, from http://css.unodc.org/documents/Cybercrime/Study_on_the_Effects.pdf

now so pervasive that it is very certain to have a role in almost all cases of child sexual abuse.”¹⁵ Furthermore, some studies indicate that the children who are most exposed to violence online share common risk indicators with those who are vulnerable outside.¹⁶ As a result, methods to combat technology-facilitated child sexual exploitation and abuse must be seen broadly, with a systems-level approach firmly entrenched in the development of robust child protection and justice institutions. At the same time, there is a need to address the unique issues brought by technology-facilitated child sexual exploitation and abuse. This involves forging new alliances and collaborations with non-traditional partners in business and government departments concerned with communication and technology.¹⁷

1.2 Statement of the Problem

This study presents a baseline situation as well as a policy gap analysis in Nepal’s current legal framework dealing with Online Child Sexual Abuse.

Emerging concerns in the realm of child safety are inextricably linked to the increased accessibility and utilization of information and communication technology (ICTs). There is an acknowledgment of the need to address the forthcoming technological threats that present new risks for child exploitation and abuse, as perpetrators exploit current communication tools to promote child sexual assault. As a result, the state must design tailored programs to address the unique dangers/risks and issues associated with children’s usage of ICTs.

The fundamental problem relating to online child sexual abuse are as follows:

- ◆ Excessive and unlimited access to internet facility of children for various purposes without effective monitoring and supervision initiatives;
- ◆ Limited understating and knowledge about online sexual child abuse among children, parents and concerned stakeholders;

15 *A new typology of Child sexual abuse offending* - CSA centre. (2020). Retrieved May 7, 2022, from <https://www.csacentre.org.uk/documents/new-typology-of-child-sexual-abuse-offending/>

16 *Our lives online* - UNICEF. (2020). Retrieved May 9, 2022, from <https://www.unicef.org/eap/media/4691/file/Our%20lives%20online.pdf>

17 *Our lives online* - UNICEF. (2020). P.16. Retrieved May 9, 2022, from <https://www.unicef.org/eap/media/4691/file/Our%20lives%20online.pdf>

- ◆ Insufficient and limited response of legal provisions to online child sexual abuse;
- ◆ Non-recognition of online child sexual abuse;
- ◆ Limited accessibility to complaint handling mechanism; and
- ◆ Weak implementation of existing legal provisions.

1.3 Objectives of the Study

The fundamental objectives of the study are to assess the situation and analyse the policy gap pertaining to online child sexual abuse in the context of Nepal. Other key objectives of this research are as follows:

- ◆ To assess the situation about online child sexual abuse including knowledge, attitude, practice, issues and challenges;
- ◆ To review and analyse various national and international legal provisions to identify the policy gaps relating to online child sexual abuse;
- ◆ To identify the complaint handling mechanism, redress mechanism, victim protection and recovery for the victims of online child sexual abuse in the prevailing legislation of Nepal;
- ◆ To trace out available services for the victims of online child sexual abuse and the impact of those services in Nepal;
- ◆ To evaluate monitoring and regulation mechanisms of telecommunication and Internet Service Providers (ISPs) to ensure the protection of children from online child sexual abuse;
- ◆ To assess and analyse the preparedness/protection initiatives of internet service providers and other key stakeholders to tackle online child sexual abuse in Nepal; and
- ◆ To identify the challenges of service providers and key stakeholders to combat online child sexual abuse.

1.4 Rationale of the Study

Apparently children have been facing new forms of abuses by means of technology. This study analyses the specific role of internet access in child sexual abuse as well as explores the current state and prevalence of OCSA in Nepal, and identifies the situation and knowledge of online child sexual abuse. Additionally, this study aims to identify the gaps in laws related to online child sexual abuse by analysing the laws and policies and making recommendations on how to address this phenomenon. It is also aimed at determining some contributing factors to online child abuse and making recommendations on how to combat online child abuse. Moreover, the study also assesses available services for the victims of sexual abuse online (complaint handling mechanism, redress mechanism, victim protection and recovery for the victims) and the impact of those services, stakeholders' preparedness to tackle sexual abuse of children online, challenges to the service providers and key stakeholders to combat OCSA, and problems and risks faced by children and adolescents while being online.

While this issue has been the focus of much research in many parts of the world, we have identified a knowledge gap in this area from a global perspective as well. Accordingly, the approach to this study has three specific themes: legal frameworks, law enforcement policy and practice, and prevention/behaviour change:

- ◆ The first theme analyses international and national legal frameworks in order to gather a robust evidence base and contribute to enhanced child protection legislation in line with international standards. It examines the criminalization of sexual abuse and exploitation of children through ICTs, provisions for the prevention, protection and rehabilitation of affected children as well as regularization of the private sector, such as Internet Service Providers and mobile phone companies. Based on this review, model legislation will be proposed.
- ◆ The second subject looks at law enforcement initiatives to address child sexual abuse and exploitation via ICTs, such as child-friendly investigation methodologies, redress procedures, victim protection, recovery for victims of online child sexual abuse and capacity building in law enforcement agencies.

- ◆ Finally, the third subject describes preventative strategies to combat child sexual abuse and exploitation using ICTs, as well as an examination of children's and adolescents' perspectives and suggestions on ICT usage, including risk-taking behaviour and self-protection ability.

The new technology has had, and continues to have a massive impact upon society or, more accurately, developed societies. This technology includes computers and their software, the internet and its innumerable protocols, digital storage devices, web and digital cameras and mobile phones. These developments which are ongoing have radically altered our ability to obtain and manage information and a wide variety of other materials. Moreover, they have drastically changed the way in which we communicate with one another and interact more generally. This is relevant as much to our professional as our personal lives and as much to children (including young people) as adults.¹⁸

It has been witnessed that offenders are able to gain easier access to larger and new populations of children through the use of online forums, e-mail, social networks and other internet-based communication tools. Offenders may, for example, simultaneously have up to 200 "friends" or more with whom they are at different stages of grooming.¹⁹ With such a large pool of potential victims, offenders can take calculated risks by initiating sexual conversations with children and gauging their reaction.²⁰

ICTs also enable perpetrators to have increased access to information about victims. Social networking sites can host enormous quantities of freely shared personal and biographical information. An inherent risk of such information sharing is the fact that children often lack discretion and rely on a false sense of privacy and safety. Even children who do attempt to protect their privacy and security regularly struggle to keep abreast the frequently changing privacy rules of social network sites. New features in social networking sites such

18 Gallagher, B. (2005). *New technology: Helping or harming children?* *Child Abuse Review*, 14(6), 367–373. <https://doi.org/10.1002/car.923>

19 *European online grooming Project* - Natcen Social Research. (2012). Pp. 13-14. Retrieved May 11, 2022, from <https://natcen.ac.uk/media/22514/european-online-grooming-projectfinalreport.pdf>

20 Kim-Kwang Raymond Choo. (n.d.). *Welcome to the Australian Institute of Criminology/Australian ...* Pp. 11-16. Retrieved May 12, 2022, from <https://www.aic.gov.au/sites/default/files/2020-05/rpp103.pdf>.

as geotagging of images and “checking-in” to places via mobile devices can further enhance offenders’ knowledge of a child’s location.²¹

Services and applications are available which make it easier for offenders to gather personal information about their prospective victims. For example, the “cree.py tool” extracts information associated with a single e-mail address from diverse social networking sites, providing the user with a dossier of information on potential victims, including geolocation data when available. In addition to publicly available information, and while most sites and applications increasingly employ extensive cyber security, personal information always risks compromise through hacking and other forms of illegal access.²²

By providing channels for fast, free and difficult-to-trace content, ICTs have provided offenders with increased opportunities to expose children to such harmful content. A particular source of unwanted harmful content involves the transfer of peer-to-peer files. Offenders may mislabel such files containing, for instance, violent child sexual abuse material, in order to trick children into opening, downloading and viewing them. In addition, file transfer services through e-mail, instant messaging, social networking sites, file transfer protocols, cloud computing and do-it-yourself websites have dramatically increased the accessibility of child sexual abuse material.²³ Taking into consideration of all these factors that have made children prone to online sexual abuse, it is important to conduct a study on online child sexual abuse.

1.5 Review of Literature and International Standard/Frameworks:

During this research, we have referred to a number of researches. One of them conducted by the Child Workers in Nepal Concerned Centre (CWIN)²⁴ shows

21 Livingstone, Sonia and Ólafsson, Kjartan and Staksrud, Elisabeth (2011) *Social networking, age and privacy*. Pp. 16-18. EU Kids Online, London, UK.

22 Livingstone, Sonia and Ólafsson, Kjartan and Staksrud, Elisabeth (2011) *Social networking, age and privacy*. Pp. 16-18. EU Kids Online, London, UK.

23 UNITED NATIONS OFFICE ON DRUGS AND CRIME. (2015). Retrieved July 11, 2022, from https://www.unodc.org/documents/Cybercrime/Study_on_the_Effects.pdf

24 Child Workers in Nepal Concerned Centre (CWIN-Nepal) (2020) *A Study on the Online*

that violence and exploitation of children in Nepal frequently have an online component and contribute to creating an unsafe environment for children.

A study commissioned by ECPAT Luxembourg on internet safety and risks of new technologies to children in Nepal²⁵ discusses about the rise of internet users in Nepal and highlights that despite many legal instruments in place in Nepal, the Information Communication and Technology Policy adopted in 2015 has not adopted any specific policy with regards to child online protection. It has also shown the gap in policy, specifically the newly enacted Children's Act 2018, that it does not clearly define critical concepts and terminologies.

The book *Court Watch Monitoring on Sexual and Gender Based Violence Cases on Trial at Selected District Courts*, published in December 2018 by IWRAW Asia Pacific and FWLD, pp. 23-24²⁶ states that there have been many revisions in Nepal's legislation concerning sexual and gender violence. And the immediate repercussions of such changes in the legislation may be seen in court cases, where the court has repeatedly ruled in favour of the victim in different parts of the nation. The book demonstrates that, despite the law's good advances, there are still procedural loopholes in its application.

The report published by Voice of Children 2000, ECPAT, Luxembourg on *Assessing and Understanding the Risk: Sexual Exploitation of Children Online in Nepal in 2017*²⁷ discusses about sexual exploitation of children online in Nepal. The report states that there is no exact data on the numbers of sexual exploitation of children online (SECO) cases in Nepal, however, crimes related

Child Sexual Exploitation in Nepal. Child Workers in Nepal Concerned Centre (CWIN-Nepal) Good Shephard International Foundation (GSIF).

25 ECPAT POUR UN Monde Sans Exploitation Sexuelle des Enfants. (2020). Retrieved July 25, 2022, from <https://ecpat.lu/wp-content/uploads/2020/02/ECPAT-BOOK-Final-book-2020.pdf>

26 FWLD. *Court watch monitoring on sexual and gender-based violence cases in trial in selected District Courts - Forum for Women, law and development*. FWLD. (2019, January 2). Retrieved September 22, 2022, from <https://fwld.org/publications/court-watch-monitoring-on-sexual-and-gender-based-violence-cases-in-trial-in-selected-district-courts/>

27 *Assessing and understanding the risk: Sexual exploitation of children ...* (2017). Retrieved July 30, 2022, from <https://www.voiceofchildren.org.np/uploaded/Baseline%20Survey%202017-Final.pdf>

to social networking sites, email threats, hacking, obscene websites, and SMS threats and bullying, have been recorded. Live streaming exploitation has not been officially recorded till now. With the growing numbers of mobile and internet subscribers, growing access to smart phones and similar other devices as well as children's access to these technologies, there is even greater risk of SECO in coming days. The practice of unhindered, unguided and unmonitored full access to the internet by the Nepalese children has increased their vulnerability of being exploited online. The report points out a lacking that Nepal's laws do not meet internationally recognized standards for combating commercial sexual exploitation of children (CSEC). Nepal needs to harmonize its legal framework to respond to recent trends in the production and dissemination of pornography and to address the transnational dimension of cybercrime.

Provisions relating to compensation and victim access in cases involving human trafficking and transportation, a report of USAID, The Asia Foundation, and FWLD (pp 22-24) ²⁸discusses the 2002 standards for trafficking and transportation of women and children for sexual exploitation. It has been disclosed concerning the offender's practices involving the selling of women and children for sexual exploitation. It has focused on the trafficking crisis in Nepal. It has emphasized legal provisions that have been well researched. The Human Trafficking and Transportation Control Act of 2007 is distinct from the Human Trafficking Act of 1986. It has concentrated on the victim's difficulties in obtaining recompense. An article 'Exploring Sexual Grooming in Female Perpetrated Child Sexual Abuse' by Leah E. Kaylor, Gergia M. Winters, and Elizabeth Jeglic (2021, pp. 503-521)²⁹ explores what is known about female sexual offending, integrating it with the research on sexual grooming to provide a framework for understanding female sexual grooming behaviours. The article's findings reveal that, in comparison to men, less is known about the behaviours and strategies used by females to conduct child sexual abuse.

28 US AID THE ASIA FOUNDATION FWLD. (n.d.). *Access to Justice of victim women of violence*. Retrieved August 1, 2022, from <https://fwld.org/wp-content/uploads/2019/04/Compensation-study.pdf>

29 Leah E. Kaylor, Georgia M. Winters & Elizabeth L. Jeglic (2022) *Exploring Sexual Grooming in Female Perpetrated Child Sexual Abuse*, *Journal of Child Sexual Abuse*, 31:5, 503-521, DOI: 10.1080/10538712.2021.1994505

While sexual grooming is involved in up to half of male-perpetrated child sexual abuse, it has not been experimentally researched as it applies to women.

Nepal is abided by various international and regional human rights treaties and commitments concerning combating commercial sexual abuse of children, namely, the *Convention on the Rights of the Child (CRC)*, *CRC OPSC*, *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, *South Asian Association for Regional Cooperation (SAARC)*, *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, *SAARC Convention on Child Welfare*, and *Declaration and Agenda for Action against Commercial Sexual Abuse of Children (Stockholm Agenda for Action -1996)*,³⁰ and the *Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Abuse of Children and Adolescents*, 2008. The *Slavery Convention, 1953*, *Supplementary Convention on the Abolition of Slavery, 1956*, *Slave Trade and Institution and Practices Similar to Slavery, 1956*, *Convention on the Suppression of Immoral Trafficking, 1949*, and *Forced Labour Convention, 1930* and *Abolition of Forced Labour Convention, 1957* are other important instruments to which Nepal is a party and relevant to discussing CSEC in Nepal. Although it has ratified the Convention against Transnational Organized Crime, Nepal has not yet done so with the *Protocol to Prevent, Suppress and Punish Persons Trafficking, Especially Women and Children*.³¹

After the ratification of the CRC by Nepal on September 14, 1990, the Optional Protocol to the CRC on the *Sale of Children, Child Prostitution and Child Pornography* on January 20, 2006, and the *Optional Protocol to the CRC on the Involvement of Children in Armed Conflict* on January 3, 2007, the provisions of these treaties obtained legal status above the domestic laws in the legal system of Nepal.³² These instruments have given clear guidelines to Nepal on its obligation in protecting children from all forms of abuse and exploitation.

Brief findings of literature review and international standards and frameworks is attached herewith in Annex I.

30 *The Stockholm declaration and agenda for action declaration* - dji.de. (n.d.). Retrieved August 2, 2022, from https://www.dji.de/fileadmin/user_upload/izkk/StockholmAgenda1996.pdf

31 UNITED NATIONS Country Team in Nepal. (2013). *A Country Analysis with a Human Face*. Retrieved August 5, 2022.

32 *Ratification of the 18 international human rights treaties concepts and...* (2020). Retrieved August 7, 2022, from https://indicators.ohchr.org/Stock/Documents/MetadataRatificationTotal_Dashboard.pdf

1.6 Methodology of the Study

a) Data Collection Methods

The research adopted three major qualitative methods to gather relevant information and data: desk review, key informant interviews and focus group discussions.

For the desk review, Matrix Analysis was applied as a tool. This study reads some relevant legal instruments, both international legal instruments and national law and regulations of Nepal. Concepts and reviews are cited from books and academic papers while facts are obtained from government and non-governmental organizations' reports, online sources and interviews. By virtue of providing comparative insights, this study also looks at case studies and developments of regulating as well as enforcement measures imposed on online Sexual Abuse of Children, which can be traced from relevant reports and publications.

- a) Constitution of Nepal, 2015;
- b) Legislative framework;
- c) Directives, bylaws and SOPs (standard operating procedures);
- d) Court cases (Online related to child sexual abuse);
- e) Other relevant literature and resources materials.

Key Informant Interviews: For Key informant Interviews, open ended questions with the list of issues were prepared and used. Where the data were collected from the different stakeholders as well as members of beneficiary groups of the two provinces to identify the problems, challenges, information on the current situation and prevalence of OCSA.

Cross-verification of information was done during the study, in order to ensure the credibility of the collected data. A total of 37 persons (27 in Kathmandu and 10 in Sunsari) from different stakeholders were interviewed in this process. Name list of stakeholders who take part in KII is attached herewith in Annex II. KIIs with stakeholders were conducted based on key informant interview questionnaire which is attached herewith in Annex III.

Similarly, a total of 100 children were interviewed to gather first-hand information relating to the study. Children for KIIs were selected on a random basis whereas the focus was given to children from VOC shelters and child clubs of VOC. Children from different governmental and non-governmental organizations were also interviewed. KIIs with children were conducted based on the key informant interview questionnaire which is attached herewith in Annex IV. Pre-informed consent from children was obtained for the interviews with them. The consent form is attached herewith in Annex V.

Focused Group Discussion: Focused group discussions were conducted with children and parents. A total of 173 parents (in 17 FGDs) and 200 children (in 20 FGDs) participated in the focus group discussions. Children and parents for FGDs were selected on a random basis, however, preference was given to those who are connected with VOC through different initiatives and networks including VOC shelter, community/ward child clubs of VOC, ward level women groups/networks. FGDs with children and Parents were conducted based on FGD questionnaires attached herewith in Annex VI and VII respectively.

Throughout the study, research team contacted a total of 514 persons including children (100 KIIs and 200 FGDs) parents (173 FGDs), stakeholders (37 KIIs) and LGBTIQ (4 KIIs).

Policy review meeting was conducted among the policy makers including government attorneys from OAG, and district government attorney office, President from NBA, Dean, Faculty of Law, TU, OPMC, MOLJPA, Law Commission, Cyber Bureau, Child Welfare Council, child experts, ISPs. The stakeholders' opinions were collected based on key informant interview questionnaires which are attached herewith in Annex VIII. The list of participants of the consultation meeting is attached herewith in Annex IX.

Interaction program on Preliminary findings of Baseline study on OCSA of Bagmati Province was concluded on 27th September 2022 with different stakeholders. Different stakeholders provided their invaluable suggestions, feedbacks and concerns in the program. the representatives from MOLJPA, MOWCSW, Government attorney, representative from NBA and its units of Kathmandu Valley, Member of Judicial Committees, NHRC, academicians, ISPs, Cyber Bureau and different non-governmental organizations working

for child rights participated in the consultation. The list of participants of the consultation meeting is attached herewith in Annex X.

b) Data Analysis Methods

Considering the nature and data of the investigation, interpretive analysis approaches were used in the study. The primary concerns selected for the interpretive analysis through interviews and desk review were the emergence of OCSA, difficulties, challenges, present situation and prevalence of OCSA, gaps in laws and regulations linked to online child sexual abuse and suggestions. The information acquired during the desk review and from key informant interviews was classified according to the study's subjects and then placed into the matrix.

Second, the desk review findings were compared and contrasted with the findings of key informant interviews. The findings of the analyses are reported in the Chapters 3 and 4.

Relevant stakeholders such as, government officials, law enforcement officials, investigators, prosecutors, adjudicators, defence lawyers, parents, school teachers, ICT industry representatives, cybercafé owners, representatives from NGOs were also consulted in the study.

The first-hand information collected via KII with children is based on subjective questionnaires with open-ended questions. After the collection of information, the team broke down the issues into multiple categories in line with the objectives of the study for the purpose of quantifying the responses. The received responses were divided into different categories on the actual basis with due respect to the opinion of respondents in a good faith by avoiding any type of manipulation. Further analysis of data was carried out using SPSS and Excel. The key findings of the data analysis are presented in the report mainly based on gender, province, age and class disaggregation on various aspects such as the general situation of internet access, general knowledge of the OCSA, key issues and challenges, policy and institutional arrangements including implementation and way forward.

Similarly, the responses of FGDs were broken down by the researcher into different themes based on the key objectives of the study. The key findings of FGDs are presented in the report with a focus on the generalization of

the responses based on the analysis of the research team complemented by quantitative information.

Story Telling: Various stories were collected by research team members, through informal interactions with children during KIIs and FGDs, to identify the current situation, prevalence, the problems faced by the victims of OCSA. The stories of children revealed the current scenario, issues and challenges relating to OCSA including forms of OCSA, existences of unawareness about the OCSA and legal procedures, redress mechanism for the victims of OCSA. The sample interview of the questionnaire is attached herewith in Annex XI.

1.7 Limitations of the Study

The field study was carried out in Province No 1 (Koshi) and Bagmati Province and only a few representatives from each category of stakeholders including government officials, law enforcement officials, investigators, prosecutors, adjudicators, defence lawyers, parents, school teachers, ICT industry representatives, representatives from NGOs and children as well and key informants were consulted.

1.8 Geographic Area of Study

The study was limited to some geographic areas of Nepal which are Province No 1 (Koshi) and Province No 3 (Bagmati).

CONCEPTUAL UNDERSTANDING AND DEFINITIONS

As per a UNICEF report, 1 in 5 girls and 1 in 13 boys have experience sexual exploitation or abuse before turning 18.³³ Although rates vary across countries, child sexual exploitation or abuse is prevalent across the globe³⁴ and encompasses a variety of sexual behaviours directed against children. Rapid developments in information communication technology (ICT) and increased internet penetration have increased situational opportunities for technology-facilitated child sexual exploitation and abuse.

2.1 Defining Online Child Sexual Abuse

There is no internationally agreed definition of online child sexual exploitation and abuse. For the purposes of this study, the term is used interchangeably with ‘technology-facilitated child sexual exploitation and abuse’ to refer to child sexual exploitation and abuse that is partly or entirely facilitated by technology, that is the internet or other wireless communications. For example, child sexual abuse takes on an online dimension when, for instance, acts of sexual abuse are photographed or video-/audio recorded and then uploaded and made available online, whether for personal use or for sharing with others. Each repeated viewing and/or sharing of such recorded material constitutes a new violation of the rights of the child.³⁵

Online child sexual abuse (OCSA) can include child sexual abuse/

33 *Action to end child sexual abuse and exploitation* - UNICEF. (2020). Retrieved August 9, 2022, from <https://www.unicef.org/media/89096/file/CSAE-Report-v2.pdf>.

34 *Action to end child sexual abuse and exploitation* - UNICEF. (2020). Retrieved August 9, 2022, from <https://www.unicef.org/media/89096/file/CSAE-Report-v2.pdf>.

35 UN Human Rights Office. (2016). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016. Retrieved July 17, 2022, from https://www.ohchr.org/sites/default/files/TerminologyGuidelines_en.pdf

exploitation material (CSAM/CSEM),³⁶ live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).³⁷ In this chapter, breakdown of the term Online Child Sexual Abuse (OCSA) has been made into different aspects to understand the online aspect of children's sexual abuse or OCSA.

2.2 Child Sexual Abuse - In General

The World Health Organization (WHO), describes “abuse” of children as either the physical, emotional or sexual mistreatment of a child, or the neglect of a child, in the context of a relationship of responsibility, trust or power, resulting in actual or potential harm to the child's physical and/or emotional health, survival and development.³⁸ “Child sexual abuse” can be described, more specifically, as: “the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not develop mentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person.”³⁹

36 UN Human Rights Office. (2016). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016. Retrieved July 17, 2022, from https://www.ohchr.org/sites/default/files/TerminologyGuidelines_en.pdf

37 ECPAT POUR UN Monde Sans Exploitation Sexuelle des Enfants. (2020). Retrieved July 25, 2022, from <https://ecpat.lu/wp-content/uploads/2020/02/ECPAT-BOOK-Final-book-2020.pdf>

38 World Health Organization. (2022). *Child maltreatment*. World Health Organization. Retrieved September 27, 2022, from <https://www.who.int/news-room/fact-sheets/detail/child-maltreatment>

39 *Guidelines for Medico-legal care for victims of sexual violence*. (2003). Retrieved August 19, 2022, from <https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf?sequence=1>

Story 1: Sexual harassment of minor in the name of love affair

Manzeela (name changed) was a girl of 17 years old. She was living with her parents. Her father used to work in a factory and mother used to work in other's house as a domestic help. Her parents managed to provide her mobile phone. They did not have access to internet in their own home but she was able to subscribe mobile data pack in her mobile. Sometimes she used to visit her friend's home for using Wi-Fi as mobile data pack is comparatively expensive. She had her own Facebook account. She used to have online conversation with a boy from the same school. Most of the time her boyfriend used to request her to send her nude pictures. Similarly, he used to send her vulgar messages, nude pictures, adult video suggestions in messenger. Due to fear she used to delete all messages.

Even after break up, he gave her threat that he would expose her private and intimate photos with him taken when they were in a relationship. One day with all strength, she visited the police station to report against online sexual harassment but police asked her about the evidence of online child sexual abuse. She followed the police station regarding the progress of her complaint but they replied that they are searching the abuser despite of detailed information about the perpetrator was provided. The victim was disappointed that her abuser was not traced by the police for long period of time. She thought Police did not conduct adequate investigation to find and punish him. So finally, she left following up with police thinking that such issues are not taken seriously or they are not serious issues.

In a simpler word, child sexual abuse involves forcing or enticing a child under the age of 18 to take part in sexual activity, whether or not the child is aware of what is happening. This may include activities such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways or grooming a child in preparation for abuse.⁴⁰ Child sexual abuse is not limited to engaging a child in a sexual act or inappropriate physical contact, but it

⁴⁰ What is online child sexual abuse and exploitation? What is online child sexual abuse. (n.d.). Retrieved August 20, 2022, from <https://www.ceop.police.uk/Safety-Centre/what-is-online-child-sexual-abuse/>

also involves showing a child an adult's genitals or making a child watch a sexual act or pornographic material. Sexual abuse includes allowing the child to engage in prostitution or in the production of child pornography.⁴¹

Child sexual abuse can be defined as sexual contact with a child that occurs under one of three conditions:⁴²

- When a large age or maturational difference exists between the partners;
- When the partner is in a position of authority over or in a care-taking relationship with the child;
- When the acts are carried out against the child by using violence or trickery.

Sexual exploitation and abuse are described by the UN Committee on the Rights of the Child as:⁴³

- The inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity;
- The sexual exploitation of minors for profit;
- Minors being used in audio or video depictions of child sexual abuse;
- Child prostitution, sexual slavery, sexual abuse in travel and tourism, trafficking (within and between countries) and sale of children for sexual purposes, and forced marriage.

Numerous children suffer from sexual abuse that is not accompanied by physical force or restriction but is still invasive, exploitative and distressing on a psychological level.

In this study, child sexual abuse is referred as any sexual activity imposed by an adult on a child against which the child is entitled to protection by

41 *Definitions of child abuse and Neglect - Child Welfare*. (2022). Retrieved August 20, 2022, from <https://www.childwelfare.gov/pubPDFs/define.pdf>

42 SOS Children Village Uk. (1991). *Childhood And Trauma – Separation, Abuse, War*. SOS Children Village Uk

43 Committee on the Rights of the Child, *The right of the child to freedom from all forms of violence*, General comment No. 13 (2011) CRC/C/GC/13, para. 25
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

criminal law; and any sexual activities committed by another child in the context of differences in age, use of power, exertion of threats and other forms of pressure.⁴⁴

2.3 Distinct Nature of Online Child Sexual Abuse

It has frequently been asserted that abuse is traumatizing both offline and online. Children may be sexually abused with or without physical contact. Both of these are referred to as abuse—contact and non-contact. In terms of the physical behaviour involving minors, “contact” and “non-contact” sexual abuse are separated from one another. While non-contact sexual abuse refers to acts when the offender does not make physical contact with a child, such as when they possess, distribute, or consume child sexual abuse material, contact sexual abuse generally refers to physical sexual contact of a damaging kind.⁴⁵

Contact abuse involves touching activities where an abuser makes physical contact with a child, including penetration. It may include, but is not limited to:⁴⁶

- Sexual touching of any part of the body whether the child is wearing clothes or not;
- Rape or penetration by putting an object or body part inside a child’s body part;
- Forcing or encouraging a child to take part in sexual activity; or
- Making a child take their clothes off and touch someone else’s body part.

While, non-contact abuse involves non-touching activities, such as grooming, exploitation, persuading children to perform sexual acts over the internet and flashing. It may include, but is not limited to:⁴⁷

44 *What works to prevent online and offline child sexual Exploitation and Abuse?* - UNICEF. (2020). Retrieved July 10, 2022, from <https://www.unicef.org/eap/media/4706/file>

45 UNITED NATIONS OFFICE ON DRUGS AND CRIME. (2015). Retrieved July 11, 2022, from https://www.unodc.org/documents/Cybercrime/Study_on_the_Effects.pdf

46 Nspcc. (n.d.). *What is child abuse?* NSPCC. Retrieved July 18, 2022, from <https://www.nspcc.org.uk/what-is-child-abuse/>

47 Nspcc. (n.d.). *What is child abuse?* NSPCC. Retrieved July 18, 2022, from <https://www.nspcc.org.uk/what-is-child-abuse/>

- Encouraging a child to watch or hear sexual acts;
- Not taking proper measures to prevent a child from being exposed to sexual activities by others;

Meeting a child following sexual grooming with the intent of abusing them;

Story 2: Publicity of sexual content in the name of online friendship

Nikesh (changed name), a 16-year-old belonging to a middle class family, was studying at a private school in grade 9. His father had a small business, while his mother was a home maker. During the COVID-19 breakout, his parents were able to provide him a mobile phone and a laptop with internet access for his online studies. He was extremely active on the internet having his own social media accounts, such as Facebook and Instagram.

He used to talk to random people on social media but had made a close connection with a Facebook account having a girl's profile. They trusted each other after exchanging several messages in a short duration. During their conversation, they shared their Facebook id and password with one another.

Later, it was found that the girl had misused his account and posted pornographic materials in his school's group chat. Upon receiving such content in the chat group, the school administration inquired about the incident. Although the boy had not done the said activities, he was held accountable for using internet negligently thus was suspended from the school for five days. He did not file a complaint against the abuser to the police with the fear that he might be punished for sharing his user id and password despite of his innocence. He felt being innocent is also punishable.

- Online abuse including making, viewing or distributing child abuse images;
- Allowing someone else to make, view or distribute child abuse images;
- Showing pornography to a child; or
- Sexually exploiting a child for money, power, or status (child exploitation).⁴⁸

48 Nspcc. (n.d.). *What is child abuse?* NSPCC. Retrieved July 18, 2022, from <https://www.nspcc.org.uk/what-is-child-abuse/>

This non-contact sexual abuse is a child sexual abuse facilitated by ICT, also known as Online Child Sexual Abuse. The use of the Internet as a means to exploit children sexually, which includes cases in which contact child abuse and/or exploitation offline is combined with an online component.⁴⁹

The European Union (EU) offers three categories to explain forms of behaviour related to ICT facilitated child abuse and exploitation.⁵⁰

- The first category is described as online harm from content, which conceives of the child as a passive recipient of pornographic or harmful sexual content;
- A second category refers to harm from contact, where the child is targeted as a participant by an adult or another child in activities such as sexual abuse that is recorded and then distributed; this category also includes online grooming for sexual abuse or cyberbullying;
- The third category refers to harm from conduct, where the child actively initiates risky online behaviour including the production of self-generated content, bullying others or physically meeting online “friends”.

Online child sexual abuse is frequently associated with adults assaulting children, however research shows that children are increasingly producing and sharing child exploitation content on social media. Self-generated sexual content is another name for this, and it frequently takes the form of “sexting,” which involves soliciting, capturing, and distributing graphic material. A young person could experience pressure, coercion or being pushed into capturing and sharing these graphic pictures with peers or friends.⁵¹

There is currently no clear boundary between offline and online child sexual

49 The University of Edinburgh, UK. (2016). *Researching online child sexual exploitation and abuse: Are there links between online and offline vulnerabilities?* Retrieved July 17, 2022, from https://www.research.ed.ac.uk/files/59858120/Guide_7_Child_sexual_exploitation_and_abuse_Quayle.pdf

50 EU Kids Online: Final Report 2009 - *London School of Economics*. (2009). P.10 Retrieved July 17, 2022, from <https://eprints.lse.ac.uk/24372/1/EU%20Kids%20Online%20final%20report%202009%28lsero%29.pdf>

51 *What is online child sexual exploitation?* Retrieved August 19, 2022, from <https://www.acce.gov.au/help-and-support/what-is-online-child-exploitation>

abuse, and it is not always possible to separate these forms of violence. For example, a child may be abused offline and this can continue online or vice versa.⁵² Online child sexual abuse includes a wide range of behaviours and situations according to the Australian Centre to Counter Child Exploitation.⁵³

- **Online grooming or solicitation of children for sexual purposes**

The term “grooming” refers to the sexual solicitation of minors for reasons of exploitation or abuse in the context of children. The practice of establishing/building a relationship with a youngster in person or via the use of the internet or other digital technologies in order to facilitate either online or offline sexual interaction with that person is referred to as grooming or online grooming.⁵⁴

The process of getting close to a youngster in order to abuse and exploit them both online and offline is a crime which may be made easier by using online channels like social media, texting and live broadcasting.

Similarly, as per International Association of Computer Investigative Specialists (IACIS), “The online sexual solicitation of children involves sexually-oriented interactions over the internet; the production, collection, and distribution of child pornography; unwanted exposure of children to pornography; and child-sex tourism and prostitution.”⁵⁵

The Lanzarote Convention mentions the “solicitation of children for sexual purposes” as: “intentional proposal, through information and communication technologies, of an adult to meet a child ... for the purpose of committing any of the offences established ... against him or her, where this proposal has been followed by material acts leading to such a meeting”.⁵⁶

52 *What works?* - UNICEF. (2020). Retrieved August 18, 2022, from <https://www.unicef.org/eap/media/4706/file/What%20works.pdf>

53 *What is online child sexual exploitation?* Retrieved August 19, 2022, from <https://www.acce.gov.au/help-and-support/what-is-online-child-exploitation>

54 *What works?* - UNICEF. (2020). Retrieved August 18, 2022, from <https://www.unicef.org/eap/media/4706/file/What%20works.pdf>

55 Robert J. O’Leary & Robert D’Ovidio, *Online Sexual abuse of Children*, for National Governors Association (UAS: 2005) available at: <http://www.nga.org/files/live/sites/NGA/files/pdf/0703ONLINECHILD.PDF> (accessed on Sept 2, 2016)

56 Council of Europe Convention. *Protection of children against sexual exploitation and sexual abuse*. (n.d.). Retrieved September 15, 2022, from <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>

*Offenders and Modus Operandi*⁵⁷

- a) Offenders are primarily motivated by their sexual interest in children or by financial gain;
- b) They operate alone or as part of a network. Offenders target victims by assessing their vulnerability (e.g., self-confidence, parental control) or by targeting children randomly;
- c) Contact with a child is generally initiated online (e.g., in chatrooms, gaming sites or social media platforms), but offline grooming also occurs;
- d) Grooming usually involves establishing an emotional connection with a child to gain the child's trust (also called long term grooming);
- e) Offenders can also focus on quickly gaining leverage over a victim rather than first establishing a trusting relationship;
- f) Groomers sometimes also groom others such as the child's peers, family and community-at-large;
- g) Grooming behaviours include filling the needs of a child by giving e.g., attention and gifts, psychological coercion, manipulation, 'sexually educating' and desensitising a child;
- h) Groomers progressively sexualise the relationship with the child (either quickly or slowly);
- i) Groomers commonly use isolation, secrecy and blame to sustain the child's participation and silence.

- **Live streaming**

Child sex offenders (CSOs) may utilize live streaming platforms to encourage victims to engage in or see sexual activity via a webcam. CSOs can also broadcast or view in-person instances of child sex abuse or explicit photographs of youngsters with other criminals. In certain cases, CSOs may pay facilitators to broadcast live contact abuse, during which the abuser will decide what sexual actions will be committed against the victim.

57 ECPAT. *A user-friendly booklet on the manifestations, legal frameworks and ...* (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

*Offenders and Modus Operandi*⁵⁸

- a) Offenders watching live sexual abuse of children via e.g., webcam may gain access through intermediaries or facilitators;
- b) Facilitators are sometimes the child's family or community members who force the child to perform in front of a webcam and communicate with and elicit (potential) customers;
- c) The offender and the facilitator or child agree on a time and date when the abuse will take place and the offender will log on. These appointments are made via chat, e-mail, phone and any other available channel;
- d) Additionally, the parties involved will agree on a price the offender will pay, usually through common legitimate payment services. The amounts paid are generally small to prevent raising suspicion related to the transactions;
- e) Different platforms such as Skype or webcam-supported chat sites are being used to live stream the abuse over the internet. This allows offenders to view the abuse in real time and/or to direct it through the chat or voice function;
- f) In some communities, there can be a level of social tolerance permitting the crime. This is related to several factors such as poverty and a limited understanding of the internet, the implications for the child - particularly when there is no physical sexual abuse involved - or the illegality of these acts. Live online child sexual abuse can be perceived as an easy and quick source of income.

● **Online coercion and blackmail/ Sextortion**

Using sexual photographs and/or videos of that kid to coerce or blackmail a youngster using technology for sexual benefit (such as to get new indecent images of children (IIOC) or arrange a sexual encounter), monetary gain, or other personal gain.

The draft Terminology Guidelines describe sexual extortion of minors as *“the*

58 ECPAT. *A user-friendly booklet on the manifestations, legal frameworks and ...* (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

*blackmailing of a person using self-generated photos of that person in order to extort sexual favours, money, or other advantages from him/her under threat of distributing the material beyond the consent of the portrayed person (e.g., publishing images on social media)."*⁵⁹

*Offenders and Characteristics of Sexual Extortion*⁶⁰

- a) Perpetrators often rely on a position of authority or a perceived imbalance of power rather than on physical violence or force to coerce a child into sexual favours or money;
- b) The psychological coercion generally manifests with threat of withholding certain benefits or threat of undesirable consequences if demands are not met;
- c) The sexual component could involve a perpetrator's demand for any form of unwanted sexual activity, such as exposing private body parts, posing for sexual photographs, or submitting to sexual or physical abuse during a meeting offline;
- d) The sexual component can also be reflected in the methods applied to obtain goods, services or money. For example, perpetrators gain access to self-generated sexual content or compromising images of a victim and use this material to blackmail for money;
- e) Sexual extortion can involve the (threat of) dissemination of compromising images online or to peers. This in turn can result in other negative consequences like (cyber) bullying which further victimises or harms the child.

Anecdotal evidence found during a study indicates that the sexual extortion of children in South Asia seems to overwhelmingly be perpetrated by boys and men against girls. This is because social norms related to the value of the girl's virginity and the "honour" of the family put boys and men in a position of power over girls due to the extreme social consequences for the girl if her sexualized photos are distributed online.

59 UN Human Rights Office. (2016). *Terminology Guidelines*. Retrieved August 21, 2022, from https://www.ohchr.org/sites/default/files/TerminologyGuidelines_en.pdf

60 ECPAT. *A user-friendly booklet on the manifestations, legal frameworks and ...* (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

- **Computer (or digitally) generated child sexual abuse material**

The phrase “computer (or digitally) generated child sexual abuse material” refers to all media depicting children engaging in sexual activity and/or being sexualized, with the specific qualification that the creation of the material did not include actual contact abuse of real children but was instead made artificially using digital tools to mimic the appearance of real children. It consists of what is known as “virtual child pornography.” Despite the fact that computer-generated CSAM/CSEM does not damage actual children, it is nonetheless hazardous because (i) it may be used to groom kids for sexual exploitation; (ii) it keeps a market for child sexual abuse material; and (iii) it promotes a culture of tolerance for the sexualization of kids and creates demand.⁶¹

CSOs can use online platforms to store and share IIOC and prohibited images. Online platforms can also be used to facilitate the production of IIOC, for example screen-recording of CSEA perpetrated over live streaming.

This study uses the definition contained in the Budapest Convention (2001), as this Convention deals specifically with online abuse.⁶²

This Convention defines child pornography as:

“... pornographic material that visually depicts: a) a minor engaged in sexually explicit conduct⁶³; b) a person appearing to be a minor engaged in sexually explicit conduct; c) realistic images representing a minor engaged in sexually explicit conduct...”⁶⁴

Offenders and Modus Operandi⁶⁵

- a) Offenders are primarily motivated by their sexual interest in children or by financial gain;

61 ECPAT. *A user-friendly booklet on the manifestations, legal frameworks and ...* (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

62 *Budapest Convention on cybercrime* - rm.coe.int. (2001). Retrieved October 22, 2022, from <https://rm.coe.int/special-edition-budapest-convention-en-2022/1680a6992e>.

63 *Budapest Convention on cybercrime* - rm.coe.int. (2001) Para. 100 pg76. Retrieved October 22, 2022, from <https://rm.coe.int/special-edition-budapest-convention-en-2022/1680a6992e>.

64 *Budapest Convention on cybercrime* 23.XI.2001. Article 9(2) (2001). Retrieved July 10, 2022, from <https://rm.coe.int/1680081561>

65 ECPAT. *A user-friendly booklet on the manifestations, legal frameworks and ...* (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

- b) They operate alone or as part of a network;
- c) They use different devices, software and/or the internet to produce, access or share materials;
- d) They sometimes apply encryption methods and may also use more hidden online platforms to conceal their conduct and avoid being detected;
- e) (Computer generated) CSAM/CSEM is sometimes used by offenders to groom or manipulate children into engaging in sexual activities.

- **Non-consensual sharing of self-generated sexually explicit material**

It is another form of violence which particularly affects girls. This can involve manipulation of self-generated material that may have been produced voluntarily but then shared without consent. It can also include material produced non-consensually, for example, through online solicitation, grooming and sexual extortion.⁶⁶

- **Unwanted sexting (peer to peer or adult to child)⁶⁷**

- a) ‘Sexting’, has been defined as the ‘self-production of sexual photos’, or as ‘the producing, sharing and sending of sexually suggestive nude or almost nude images over mobile phones and/or the internet’. It is a common behaviour among young people and is frequently a consensual behaviour between peers. There are several types of ‘unwanted sexting’. This refers to the activity’s non-consensual components, such as exchanging or receiving undesired sexually explicit photographs or communications. Children in such forms typically record and distribute photographs on their own initiative or at the request of another person. Sexting is one of the common modes that creates problematic situation to the children as children often do

66 Childhelplineinternational.org. (2022). A New Reality: Child Helplines Report on Online Child Sexual Exploitation and Abuse from Around the World. Retrieved October 16, 2022, from <https://childhelplineinternational.org/wp-content/uploads/2022/10/LEAP-Report-Final-CHI-and-UNICEF.pdf>

67 ECPAT A user-friendly booklet on the manifestations, legal frameworks and ... (2017). Retrieved July 13, 2022, from https://ecpat.org/wp-content/uploads/2021/05/SECO-Booklet_ebook-1.pdf

not understand the potential consequences of their behaviour and puts them in serious form of sexual vulnerability.

- b) Children themselves generally record and share images at their own initiative or at the request of another person;
- c) Images can be recorded with different devices. Often mobile phones are used to produce content that is shared via text, chat or social media platforms online;
- d) Content is shared with a boyfriend or girlfriend, other peers or people they are communicating with;
- e) Children's motivation for sexting can vary, including gratification in a sexual relationship, experimenting, soliciting compliments or attention and affirming a commitment to someone. Their motivation can also be related to peer pressure;
- f) Sexting is problematic as children often do not understand the potential consequences of their behaviour and do not take measures to hide identifying information;
- g) Sexting is even more problematic when the content produced involves criminal or abusive elements such as adult involvement or lack of consent in sharing it;
- h) Sexting makes children vulnerable to becoming victims of sexual extortion, (cyber) bullying and sometimes having their picture copied or used in collections of child sexual abuse/exploitation material.

- **Cyberbullying, cyber harassment and cyberstalking**

Online harassment occurs when someone uses the internet to express aggression towards another person. This can take the form of inflammatory e-mails or instant messages or damaging pictures or text posted on a profile."⁶⁸ Similar to cyber harassment, cyberbullying encompasses the use of ICTs to harm a victim or victims in deliberate,

68 Ybarra, M. L., Espelage, D. L., & Mitchell, K. J. (2007). *The co-occurrence of internet harassment and unwanted sexual solicitation victimization and perpetration: Associations with psychosocial indicators*. *Journal of Adolescent Health*, 41(6), 15. <https://doi.org/10.1016/j.jadohealth.2007.09.010>

repeated and hostile ways. This can include but is not limited to the use of the internet, cell phones or other devices to send or post text or images intended to hurt or embarrass another person.⁶⁹

When a small child, preteen or teen is harassed, intimidated, shamed, embarrassed or otherwise targeted by another child, preteen or teen via the internet, interactive and digital technologies or mobile phones, several methods to defining the phenomena centre on the ages of the victim and offender. The identity of the bully “may or may not be known” in cyberbullying. Cyberbullying can occur through electronically-mediated communication at school. However, cyberbullying behaviours frequently happen outside the school as well.⁷⁰

The term “cyberstalking” refers to a course of action that encompasses many incidents that are carried out via or employing electronic means and that incite anguish, fear or panic. The recurring nature of the action is what defines it in the main.⁷¹ Similar to its analogous offline practice, cyberstalking involves finding, observing and harassing or influencing victims. Cyber stalkers, however, differ from physical or offline stalkers in that they use internet resources for information and methods of communication.⁷²

Story 3: Defamation of a girl by the naked pictures edited and circulated online

A 15-year-old boy Deepak (name changed) son of a government official was studying in class 10 at a private school. Having access to internet was

69 WiredSafety.org. (n.d.). *Stop cyberbullying: What is cyberbullying, exactly?* Retrieved September 5, 2022, from http://stopcyberbullying.org/what_is_cyberbullying_exactly.html

70 Lars Lööf. (2020). *Online behaviour related to child sexual abuse - children at risk*. Retrieved September 27, 2022, from https://childrenatrisk.cbss.org/wp-content/uploads/2020/12/Online_behaviour_related_to_sexual_abuse.pdf

71 Assistant Secretary for Public Affairs (ASPA), stopbullying.gov. (2021, November 5). What is cyberbullying. [StopBullying.gov](http://stopbullying.gov). Retrieved September 18, 2022, from <https://www.stopbullying.gov/cyberbullying/what-is-it>

72 *An analysis of the echo pilot survey 2011 - DSPACE*. (2011). Retrieved August 25, 2022, from https://uobrep.openrepository.com/bitstream/handle/10547/270578/ECHO_Pilot_Final.pdf?sequence=1

common to him and he spent most of his time online.

He had a passion for Photoshop and he used it for fun. He was in a relationship with a girl from another school.

After some time, they had a breakup and Deepak altered the girl's image and put her face into a naked picture, misusing his Photoshop skills. He shared the edited pictures online with his male friends' group with the intention to damage her character.

The girl found out about the incident and then discussed about it with her parents. Later on, to control any further damages both the parents decided to prioritize on child's psychology and development rather than to seek for any legal remedy as they were in fear that taking the matter to the police or court would seriously put them on reputational crises and mental distress of their children. They knew that doing this would give an opportunity to the boy to do the same with other girls but to save their social prestige they remained quiet.

- **Corruption of children**

Corruption of children is a crime when children are intentionally caused to witness sexual abuse or sexual activities, even without having to participate. "Exposure to harmful online content" pertains to situations where a child accidentally or intentionally views pornographic or other content that is judged to be harmful to their development, sexual or otherwise. Harmful content can cover a broad range of audio, visual or written content and other material that has the ability to negatively influence children, although not necessarily illegal in itself. Examples include online pornography; violent video games; websites that espouse racial or ethnic hatred; commercial sites that seek to swindle youth or steal their identities and, especially, sexual material.⁷³

Children who accidentally come across harmful content can be affected before they determine whether the content is appropriate or take action to remove themselves from the situation. Some children can experience signs of stress from the exposure, while others may not externally appear to be affected. Some

⁷³ *Children's Internet Protection Act (CIPA)*. (2011). Retrieved August 28, 2022, from https://www.fcc.gov/sites/default/files/childrens_internet_protection_act_cipa.pdf

children's exposure may spark curiosity to seek more information or materials. Other children are naturally curious and may intentionally seek out information on the internet in the first place. In either case, exposure to explicit or harmful content has the potential to influence the child's development of values and perceptions. While some websites and games use age restrictions and checks to ensure that children are not exposed to harmful content, often there are few real barriers to prevent children from accessing such content at a younger age.⁷⁴ Exposure to online pornography is particularly prevalent among male adolescents. As noted in a UNICEF study on child safety online, ICTs have created an environment in which pornography has become easily accessible, with many available sites displaying extreme forms of pornography that can be accessed by young people, including through unsolicited exposure.⁷⁵

2.4 Elements of OCSA

To refer to OCSA, there can be a specific requirement that has to be met. The following are some of the major elements of online child sexual abuse that have been uncovered by research.⁷⁶

- a) Technology may make it simpler for abusers to reach young people;
- b) Abusive patterns that would be more visible in face-to-face relationships can be hidden in the online context;
- c) Young people may feel helpless if an abusive individual is in constant communication with them due to technology;
- d) Online tools provide abusers access to and control over a victim's "night-time space" by allowing them to communicate with them when they are awake and at home;

74 *The prevention of childhood sexual abuse* - university of New Hampshire. (2003). Retrieved August 29, 2022, from <https://www.unh.edu/ccrc/sites/default/files/media/2022-03/the-prevention-of-childhood-sexual-abuse.pdf>

75 The United Nations - *From 'What's your ASLR' to 'Do You Wanna Go Private?'*. Unicef.org. (2011). Retrieved August 28, 2022, from <https://www.unicef.org/southafrica/media/1221/file/ZAF-from-wahts-your-aslr-to-do-you-wanna-go-private-2011.pdf>

76 *Impact of online and offline child sexual abuse: "everyone deserves to be happy and safe"*. NSPCC Learning. (2017). Retrieved August 25, 2022, from <https://learning.nspcc.org.uk/research-resources/2017/impact-online-offline-child-sexual-abuse>

- e) A crucial component of technologically assisted - child sexual abuse (TA-CSA) is the threat to expose young people's friends and families to sexual photos of them. This is a potent weapon used by abusers to discourage children from reporting the abuse. Young individuals may experience pressure from perpetrators to comply with online sexual demands.
- f) The technical aspect may make it difficult for some young people to identify their experiences as abusive.

2.5 Children as Vulnerable Target Audience of Online Sexual Abuse

In general, it is important to identify who is at high risk of online sexual abuse. In 2019, a national study was conducted on online sexual abuse and exploitation of children in the Philippines, in which De La Salle University found that essentially all children, under the age of 18, regardless of gender are at risk of abuse over the internet, although certain characteristics and behaviours can make children more vulnerable.⁷⁷ The study found that factors that can make boys more vulnerable to exploitation include seeking out support online in relation to the development of their sexual identity and an interest in accessing pornographic materials online. They also noted that younger children have less choice about who they associate with and are still dependent on caregivers who may be sexually exploiting them online.

Many other environmental factors were also identified by De La Salle University as contributing to increased vulnerability to online CSEA including:

- Social isolation
- Parental conflict
- History of physical abuse
- Depression

77 UNICEF. (2021). *National Study OSAEC*. Retrieved August 23, 2022, from <https://www.unicef.org/philippines/media/2711/file/UNIPH-2021-NationalStudyOSAEC-FullReport.pdf>

- Bullying
- Poverty
- Urbanisation
- Family disintegration

2.6 The Impact of Online Child Sexual Abuse

It is important to assess and analyse the impact of online child sexual abuse. The impact and consciousness may be much more on a child as offline CSA. The children who have experienced online sexual abuse are likely to have experienced:⁷⁸

- Self-blame
- Flashbacks or intrusive thoughts
- Depression and low self-esteem
- Nightmares and trouble sleeping
- Anxiety and panic attacks
- Self-harm
- Problems at school, such as difficulty keeping up with work or behavioural problems.

Sometimes, the use of technology in OCSA causes additional psychological effects, such as:

- Fear of sexual images being shared online or being viewed in the future;
- Uncomfortable feeling while being filmed or around cameras;
- Fatigue for those who had been in constant contact with the person who abused them via digital technology – this was especially the case if they were in contact at night time;
- Alcoholism resulting from vulnerability of further abuse and loss of self-worth and confidence;
- Self-blame triggered by unsupportive approaches from schools, peers and family.

⁷⁸ NSPCC. (n.d.). *What is child abuse?* NSPCC. Retrieved July 18, 2022, from <https://www.nspcc.org.uk/what-is-child-abuse/>

What are the drivers of online CSEA?⁷⁹

Research indicates that children who are more vulnerable offline are also more vulnerable to online CSEA.⁸⁰

The global data on online CSEA also indicates that victims of different forms of CSEA have different characteristics. However, it is not clear if the drivers for online and offline abuse are the same or different and whether these drivers vary depending on the type of abuse. For example, the most egregious kinds of CSAM involve pre-pubescent children and perpetrators being primarily nuclear or extended family members. However, it is not known whether the drivers for this kind of sexual abuse within the family, sometimes for commercial purposes, involve the same drivers as those for other forms of CSEA perpetrated by family members.

Profile of offenders⁸¹

The motivations of offenders for committing child sex abuse vary. Many possessors of child sexual abuse material are preferential child sex offenders or paedophiles. Preferential sex offence conduct is also linked to the commercial sexual abuse and exploitation of children in the travel and tourism industries. Both men and women participate in child exploitation, although males constitute the majority of perpetrators of child abuse. Male child sexual abuse material-users and producers are, most commonly, adults in the range of 25 to 40 years of age. Both men and women may engage in cyberstalking and gender does not constitute a prominent feature in the profile of cyberbullies. Cyberbullying is especially prominent amongst children aged approximately 10 to 13 years. Though less common, some adults may also engage in cyberbullying of children.

79 UNICEF: *Responding to COVID-19. UNICEF Annual Report 2020.* (2020). Retrieved August 18, 2022, from <https://www.unicef.org/media/100946/file/UNICEF%20Annual%20Report%202020.pdf>

80 Childhelplineinternational.org. (2022). *A New Reality: Child Helplines Report on Online Child Sexual Exploitation and Abuse from Around the World.* Retrieved October 16, 2022, from <https://childhelplineinternational.org/wp-content/uploads/2022/10/LEAP-Report-Final-CHI-and-UNICEF.pdf>

81 United Nations Office on Drugs and Crime. (n.d.). *Cybercrime: Study on the effect.* Retrieved July 11, 2022, from https://www.unodc.org/documents/Cybercrime/Study_on_the_Effects.pdf

Child sexual abuse material offenders can have comparatively high levels of education, and this may correlate to offenders' comfort with and sophistication in the use of technology. Both online and offline abusers may be more likely to have experienced physical and sexual abuse than the general population. Groups of perpetrators constituting organized criminal groups are active in the area of online child abuse, most commonly through the production and distribution of child sexual abuse material and commercial sexual exploitation of children. The structure of such groups can consist of internet-based social networks of actors who collaborate in both commercial and non-commercial online trading of child sexual abuse material.

2.7 COVID-19 and OCSA

According to a 2020 International Criminal Police Organization (INTERPOL) study, the COVID-19 pandemic's worldwide limits have increased the incidence of CSAE offenses online and reduced law enforcement's ability to counteract them. It was noticed that the following were among the aggravating factors:⁸²

- School closures resulted in children spending more time in online learning environments, as well as in online entertainment and social purposes;
- The closure of international borders and limits on domestic travel meant that 'in-person' offenders were more likely to relocate their behaviour online;
- Diminished access to the reporting mechanisms of support services, such as counsellors or childcare and education personnel, and inhibited capacity of government and social services to intervene.

2.8 Understanding the Psycho-socio Aspect

The psychosocial approach explains how social variables affect a person's behaviour and mental health. Additionally, it describes an individual's

82 How SARs fight online child sexual abuse by flagging financial crime. RSS. (2021). Retrieved July 10, 2022, from <https://www.napier.ai/post/sar-aml-child-abuse>

interaction between their mind, body and society. Mental health is fundamentally influenced by psychosocial factors, which are in turn greatly influenced by the social, economic and physical settings in which individuals live. Psychosocial health is defined by the WHO as “a condition of well-being in which an individual recognizes his or her own talents, can cope with the typical stressors of life, can work effectively and is able to contribute to his or her community.”

Adolescents of 12 to 19 years of age are the most vulnerable group of people in terms of psychosocial and mental health. During this age span, the teens are in dilemma of being children and being adults. The hormones secreted inside the body bring changes in size and strength of muscles, bones, nervous systems and particularly reproductive organs. This is the period when the closeness with parents decreases; they tend to be close with their peers. Negative feelings tend to surround them. They are in a vital stage where they are struggling hard for their own personal identity.

Another important feature of the age is the curiosity regarding sex matters and attraction towards opposite sex. The problem arises when parents only suppress such feelings of the adolescent. The adolescent cannot understand the sexual matters and these repressed feelings may either explode more devastatingly or may lead to other abnormalities. They do not know how to handle these newly awakened sex impulses which drain an adolescent’s energy and attention.

Parents, especially in a country like Nepal, where sex education is not adequate and parents themselves are not comfortable to talk about this with their children, are worried and end with harsh behaviour with their children. Moreover, sex behaviour happens to be the greatest concern regarding the development of the moral character.

It is only from year eleven onwards, an adolescent starts thinking logically and persistently, according to Jean Piaget. Because of emotional instability, an adolescent has no patience to think over the pros and cons of a step that s/he is going to take, even though s/he is developed enough to do it. Lack of emotional maturity also means to take harsh or reckless step out of anger or frustration. Committing suicide is an example. Peers matter a lot in this stage. In addition, heroism is another attraction among them. They fall for such

person who may be in good physique, skilful in sports, singing and dancing, adventurous in nature, outspoken and so on.

Sexual abuse is a devastating traumatic event, more damaging with small children and adolescents' psychosocial wellbeing. Being in a transition period between childhood and adulthood, adolescents are not matured enough physically, mentally, emotionally and socially. They have poor decision-making ability including in their choices of people to make relationship with.

The victims experience sleep problems, loneliness, self-blame, fearfulness, helplessness, worthlessness, hopelessness, nightmares, aggressiveness, lack of trust, flashbacks or intrusive thoughts, selective memory loss, depressed mood and pain in different parts of the body. Online sexual abuse is strongly associated with anxiety, depression, stress disorders and suicidal thoughts.

The consequences of traumatic experiences in childhood may lead to changes in developing cognitive, emotional and behavioural dysfunctions depending upon the age and gender of the child and frequency of the exposure of the event and pre-existing conditions and other vulnerable situations. These are very likely to have for a long run; some of the difficulties may be observed when they become adult.

The victims of OCSA have numerous psychosocial problems that ruins their psychosocial wellbeing. If not treated on time, the adolescents may be trapped in one or other kind of psychological disorders like depression, anxiety or posttraumatic stress disorder and suicidal ideation.

Child friendly environment, digital literacy to all, including parents and children, appropriate policies, protective measures are few examples of the actions to be taken. All the stakeholders need to have a deeper understanding about the complexities of OCSA and about the protective measures. The OCSA is a social issue, therefore an integrated response in structural, legal and policy fronts is required.

POLICY GAP ANALYSIS IN NEPALESE CONTEXT

3.1 Constitutional Arrangement

The Constitution of Nepal, 2015 has ensured right to dignified life,⁸³ right to equality,⁸⁴ right to victim protection,⁸⁵ right to privacy⁸⁶ as fundamental rights. Further, it also warrants for an enabling environment for the protection and development of children.

Besides this, right to child has been recognised as fundamental rights including right against physical, mental or any other form of torture in home, school or other place and situation whatsoever⁸⁷ along with right to juvenile friendly justice.⁸⁸

However, the term online abuse is not stipulated in the Constitution, although it has ensured right against abuse of children in every aspect and interpretation of constitutional provision has to be done accordingly.

3.2 Telecommunication Act, 1997

Telecommunication Act has provisioned for protection against harassment. It says that if a person abuses, threatens or causes unnecessary harassment

83 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art. 16.

84 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art.18.

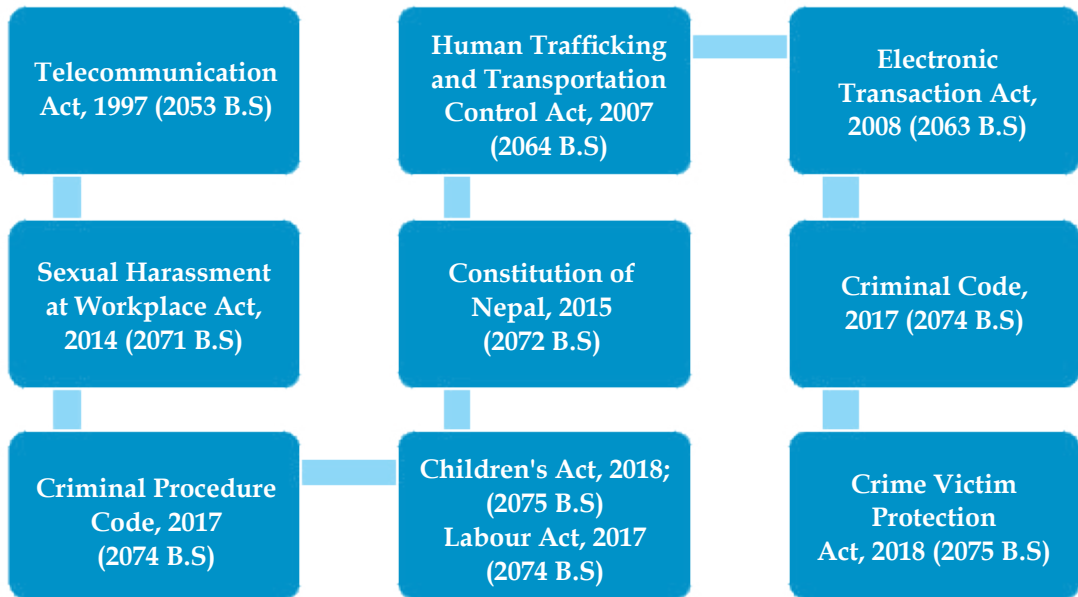
85 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art. 21.

86 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art. 28.

87 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art. 39(6).

88 Nepal. (2015). *The Constitution of Nepal*, as amended by the first amendment of the Constitution. Government of Nepal, Ministry of Law, Justice and Parliamentary Affairs. Art. 39(8).

through the Telecommunication Services, the Nepal Telecommunications Authority (NTA) may levy a fine of up to Twenty-Five Thousand Rupees to such person and may also cause to stop such service. Provided that, before stopping the Telecommunications Service, the NTA shall provide the concerned person with adequate opportunity for clarification and the proceedings of the cases are recorded in camera.⁸⁹



3.3 Human Trafficking and Transportation (Control) Act, 2007

The Human Trafficking and Transportation (Control) Act, 2007 defines activities that constitute human trafficking and human transportation. According to the law, the reporting of cases related to human trafficking should be made to the nearest police office.⁹⁰ Act also stipulates that human trafficking refers to take anyone from his /her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurements, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or custodian and keep him/her into

⁸⁹ Telecommunication Act 1997, (NP) s. 47 (NPL).

⁹⁰ Human Trafficking and Transportation Control Act 2007, (NP) s.5 (NPL).

ones custody or take to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation.⁹¹

The Act states that any person who commits an offence of buying or selling a human being shall be punished with twenty years imprisonment and fined two hundred thousand Rupees.⁹² The Act also provides for a translator and interpreter if the working language used by the concerned court is not understandable by the victim.⁹³ According to the Act, the compensation to the victims of trafficking shall not be less than half of the fine levied as punishment to the offender.⁹⁴ The Act guarantees the maintenance of confidentiality of the name and address of the informant.⁹⁵ The Government of Nepal (GoN) is the plaintiff in all cases filed under this Act.⁹⁶

3.4 Sexual Harassment at Workplace (Prevention) Act, 2015

The Act defines sexual harassment which includes physical touch with sexual intent, demonstrating sexual objects, audio-visual objects or other seductive materials at the workplace. According to the Act, a workplace refers to formal institutions but does not recognize informal sector as a workplace. Similarly, the Act does not include the digital platform as a workplace, which can be misused for sexual harassment. The Act mentions about sexual harassment, however, it is silent about online child sexual harassment at workplace.

3.5 Criminal Code, 2017

The criminal code provides for comprehensive details on different forms of crimes and punishment for cases involving the children of 10 to 18 years of age. The punishment for crimes against children ranges from no punishment to two thirds of the punishment imposed by law.⁹⁷ However, the code does

91 *Human Trafficking and Transportation Control Act 2007*, (NP) s.4 (NPL).

92 *Human Trafficking and Transportation Control Act 2007*, (NP) s. 15 (NPL).

93 *Human Trafficking and Transportation Control Act 2007*, (NP) s. 11 (NPL).

94 *Human Trafficking and Transportation Control Act 2007*, (NP) s. 17(1) (NPL).

95 *Human Trafficking and Transportation Control Act 2007*, (NP) s. 20 (NPL).

96 *Human Trafficking and Transportation Control Act 2007*, (NP) s. 28 (NPL).

97 *Criminal Code 2017*, (NP) s. 45 (NPL).

not clearly spell out that for the offences relating to online child sexual abuse, there could be some corrective forms of punishment or overall benefit or sustainable development of children in view of the impact, damage and other relevant aspects of the abuse.

Similarly, the code prohibits to perform indecent behaviours to children at public space including *hatpaat* and *hairani* and attempt of such activities are punishable with one year of imprisonment or a fine of ten thousand Rupees or both.⁹⁸ The code also prohibits to produce and sell pornographic books and pamphlets, and disseminate such materials through electronic means.⁹⁹

Prohibition of child sexual abuse:¹⁰⁰ The act states that no person shall commit, or cause to be committed, child sexual abuse. (2) A person shall be considered to have committed child sexual abuse if the person takes a child to a lonely place in an unusual manner, or holds or touches any sexual organ of, gets his or her sexual organ to be touched or held by, or makes any form of unusual sexual behaviour with, a child, with the motive of having sexual intercourse with the child. (3) A person who commits the child sexual abuse, s/he shall be liable to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand Rupees. However, the provision does not speak about online child sexual abuse.

The criminal code also mentions about libel which says that no person shall commit libel. Libel refers to words in writing by conduct or by signs or by visible representation or by publicity or by other means to damage the character of a person.¹⁰¹ Any person involved in libel shall be punished for upto 2 years of imprisonment or a fine of upto 20,000 Rupees or both. The code has increased the punishment if the libel is committed or caused to be committed by electronic means or other means of mass communication, such person shall be imposed additional sentence of upto 1 year of imprisonment or a fine of upto 10,000 Rupees.¹⁰² The limitation period to file claim related to libel is 3 months from the date of knowledge of the commission of the offence. These provisions can be used to address online child sexual abuse.

98 *Criminal Code 2017*, (NP) s. 118 (NPL).

99 *Criminal Code 2017*, (NP) s. 121 and 224 (NPL).

100 *Criminal Code 2017*, (NP) s. 225 (NPL).

101 *Criminal Code, 2017*, (NP) s.306(2)(a) (NPL).

102 *Criminal Code, 2017*, (NP) s.307 (NPL).

3.6 Criminal Procedure Code, 2017

Criminal Procedure Code stipulates that any criminal case involving children as an accused or a victim, the trial shall be in camera hearing and the court may prohibit the access of any person other than the concerned parties to the case, concerned law practitioners, employees of the court.¹⁰³

3.7 Crime Victim Protection Act, 2018

The Act mentions that special arrangement shall be made in course of judicial processes if the victim is a minor.¹⁰⁴ It also ensures the right to privacy of a victim in the offence of sexual harassment throughout the investigation, prosecution and court proceedings.¹⁰⁵

3.8 Electronic Transaction Act, 2008

The dissemination of illicit content online is prohibited by this law. It states that anyone who publishes or displays any material in an electronic medium, including a computer or the internet, that is prohibited by law from doing so, may be in violation of public morality or decent behaviour, or which may spread hatred against others or endanger the peaceful coexistence of people from different castes, tribes and communities, shall be subject to a fine not exceeding one hundred thousand Rupees or an imprisonment not exceeding five years or both.¹⁰⁶ As this Act is for electronic transactions, there are various limitations to deal with online child sexual abuse in terms of responsiveness of various factors including time limitation to lodge a complain (35 days), right to privacy, fair trial, in camera hearing and overall protection of children.

¹⁰³ *Criminal Procedure Code 2017*, (NP) s. 129 (NPL).

¹⁰⁴ *Crime Victim Protection Act 2018*, (NP) s. 5 (NPL).

¹⁰⁵ *Crime Victim Protection Act 2018*, (NP) s.6 (NPL).

¹⁰⁶ *Electronic Transaction Act 2008*, (NP) s. 47 (NPL)

3.9 Act Relating to Children, 2018 and Regulations, 2022

The Act Relating to Children, 2018 and Regulations, 2022 are two legislative instruments dedicated to issues of children in Nepal. The following are some of the salient features of the Act and Regulations:

Criminalizing Child Sexual Abuse as an Offense against Children: This law establishes child sexual abuse as an offense¹⁰⁷ and defines it as encompassing a variety of behaviours and activities.

Child sexual abuse is considered to have occurred when certain actions are taken against a child

- a. To display, or cause to display, any expression or gesture that reflects obscene or sexual conduct or behaviour to him or her; or to display, or cause to display, child pornography; or to show, or cause to show, him or her an offensive picture, audio-visual recording or other material of a similar kind;
- b. To suggest, entice, compel, or threaten them into engaging in sexual behaviour;
- c. To store or use any actual or imaginary indecent photograph or audio-visual material of them;
- d. To utilize them in the creation of an obscene act or material;
- e. To kiss, hold or embrace someone with the intention of having sex; to make that person touch or grasp their own or another person's sensitive body parts; to render that person unconscious with the intention of having sex; to make that person exhibit their sexual organs;
- f. To use, or cause to use, him or her to arouse sexual lust or excitement;
- g. To use, or cause to use, him or her for sexual gratification;
- h. To engage in, or to cause to engage in, the sexual exploitation of children;
- i. To use, or to cause to use, him or her with the intention of performing sexual services;
- j. To use or cause to use with the intention of abusing them sexually;
- k. To use them for prostitution or other sexual labour.

¹⁰⁷ *Children's Act 2018*, (NP) s.66 (3) (NPL).

Special Protection: The Act ensures special protection of children who have been separated from their families due to abuse, violence or neglect by their respective father, mother or guardian for their best interests.¹⁰⁸

Child Protection Standards: The Act creates obligations to schools, public bodies, private sector as well as social organization directly working with children to formulate and enforce child protection standards at the institutional level, in order to prevent violence against children or child sexual abuse, ensure protection of children and immediately take action on complaints.¹⁰⁹ Further, the Act obligates the schools, public bodies, private sector and social organizations to formulate and enforce child protection standards.

Not to be deemed eligible: A person who is convicted of child sexual abuse pursuant to this Act or the prevailing law shall be deemed to have committed a criminal offence involving moral turpitude.¹¹⁰

Liability to give information: If the father, mother, guardian, one who directly provides services to a child such a caregiver, teacher, health-worker or any other person comes to know that any person has committed or is committing or going to commit an act of violence or child sexual abuse against a child, he or she shall give information thereof to the nearby police office immediately. The Act further assures the confidentiality of the informant who gives information if he or she so desires.¹¹¹

Rescue, protection and health check-up: The Act says that if the police employee receives any information, complaint or report about violence against the child or child sexual abuse, he or she shall write, or cause to write, necessary details and register it and if the child needs to be rescued immediately, rescue him or her and refer the victim child to a temporary protection service.¹¹²

If it appears that the child victim is in physical or mental pain, the police employee shall send him or her to a nearby hospital or health centre and have his or her health checked up and treated. The Act also says that while taking the statement of a child victim, the police employee shall do so in the presence

108 *Children's Act 2018*, (NP) s. 48 (NPL).

109 *Children's Act 2018*, (NP) s. 57 (NPL).

110 *Children's Act 2018*, (NP) s. 67 (NP).

111 *Children's Act 2018*, (NP) s. 68 (NP).

112 *Children's Act 2018*, (NP) s.70 (NP).

of his or her parents, other family member or guardian if it is possible that they can so appear and if they cannot so appear, in the presence of a female representative of a social organization or a social service provider. Provided that if the parents, guardian or other family members are the perpetrator of violence against children or child sexual abuse, their presence shall not be allowed during the taking of such statement.

3.10 Other Prevailing Legal Provisions

There are other legal frameworks that deal with sexual violence and electronic means and communications in isolation. For example, Domestic Violence (Offence and Punishment) Act, 2009 deals with sexual harassment but it remains silent on the online child sexual abuse. Similarly, the Act relating to Press and Publication, 1991 prohibits publication of materials that promote gender-based violence. In addition, the National Broadcast Act, 1992, Advertisement (Regulation) Act, 2019 also prohibit publicizing certain contents through electronic means, however, such provisions are inadequate to respond to the issues and challenges pertaining to online child sexual abuse.

3.11 Policy Gap Analysis and Key Findings

Most of the provisions of legislative frameworks responding to online child sexual abuse are found scattered and not able to pay attention to one single legislative framework, however, there are a number of provisions trying to respond to the abuse/harassment/violation of rights via online or any electronic means in general in the National Criminal Code, Act Relating to Privacy, Electronic Transaction Act etc. The Information Communication and Technology Policy adopted in the year 2015 has also not opted any specific policy with regards to child online protection.

Most of the legal provisions have failed to pay special attention to online child sexual abuse in holistic manner to respond to the growing challenge of it. Online child sexual abuse seeks special consideration in view of prevention, protection, monitoring/supervision, social integration, special care and attention, overall growth and development of child etc. Thus, it is important to include online child sexual abuse issues in the specific Act on children. Some of the key areas of reform are identified as follow:

- ◆ Act Relating to Children, 2018 does not clearly define critical concepts and terminologies like child pornography or child abuse material, corruption of children, grooming and solicitation of children for sexual purposes, sexting, sextortion, online child sex abuse or live streaming, sex tourism, paedophilia and cyberstalking/bullying etc. In absence of definition for these terminologies, crimes of these natures have not been clearly understood by concerned stakeholders. Corruption of children and grooming or solicitation of children for sexual purposes are not even within the sphere of crime under the existing Act;
- ◆ If child sexual abuser is parent either father or mother, or guardian, to respond to such incidents, the existing Act Relating to Children is found silent. It only says that if the abuse happened to child, then it's the responsibility of parents or guardian to report the incident to police and children should be kept in child welfare home for certain period of time but when family members themselves are abusers, there is no provision about alternative shelter for minor victims. There is a provision of only temporary protection centre if a victim is rescued. It is key to respond to the incidents of abuse with parents /guardian and alternative shelter for minors along with social reintegration approach;
- ◆ It is important to adopt a psychological approach to respond to the risk and challenges of victims of online child sexual abuse in view of their mental health throughout the fair trial process including complain handling, interrogation, prosecution, court process and social interrogation aspect;
- ◆ The Act remains silent on making special arrangements to some of the special groups of children for their special protection. It is necessary for children with disability and children of LGBTIQ group;
- ◆ Act does not speak about cross-border issues pertaining to online child sexual abuse thus it is key to mention about cross-border online child sexual abuse. The Act may also create/ establish strong linkages with other existing provisions of cross-border issues (issues of private international law of Criminal code) with issue of online child sexual abuse.
- ◆ The Act Relating to Children is silent about corporate responsibility of ISP providers thus the issue of corporate responsibility of ISP providers needs to be addressed by Act Relating to Children or Telecommunication Act, 1997.

KEY FINDINGS

4.1 Key Findings of FGDs with Children

Research team reached 200 children through 20 Focus Group Discussions with pre-set questionnaire related to the OCSA.

General information relating to access to internet:

Out of 200 participants, majority of them (195 individuals) stated that they had access to internet whereas only 5 individuals said they did not have. It was found that Wi-Fi was more accessible over mobile data. It was also found that Wi-Fi users also tended to use mobile data when Wi-Fi was not available. Participants mentioned that they use internet for entertainment, study, communication and news. Entertainment was mentioned as the main purpose of using the internet, followed by study, communication and news.

The study also found that duration of internet use varied from children to children - some using it for 30 minutes and others for one to six hours per day. All participants acknowledged the importance and negative sides of internet use, such as, knowledge, research, news, communication as well as health problems, abuse and harassment.

General knowledge on OCSA:

Story 4: Online sexual harassment nearly led to a suicide

The victim named Shreya (name changed) was a 17-year-old girl in grade 11. Not having much knowledge on internet and its usage she had created numerous social networking accounts such as Facebook, Imo, Viber and Snapchat by changing her birth date.

She befriended a foreigner in one of these accounts. They started chatting and came closer. At one point, he lured her to send nudes and she did. Then he started compelling her to engage in virtual sex.

The foreigner continuously insisted and forced her to send pornographic

material. She also noted that the foreigner had given her details to his other friends who also started approaching her online and asking her nude pictures.

It was late when she realised that what she sent to him was shared among his friends. She felt betrayed and went through a serious form of psychological depression. Then she tried to commit suicide.

The family intervened and saved her life. While trying to figure out the reasons behind her suicidal attempt, the family members discovered that numerous porn photos and videos of her were on her mobile phone. Parents then consulted their friends and started counselling and encouraging her to stay strong. However, they didn't initiate a lawsuit as they were unaware about legal remedy and they had no solid evidence for abetment to suicide.

All the participants stated that they knew about online child sexual abuse. Similarly, it is also found that they were also familiar with the various forms of OCSA, for example, sending and receiving nude photos, seductive chat, calls, sharing of seductive photos, links, videos, emojis. Majority of the participants shared that they had experienced OCSA but very few stated that they didn't. Majority of them also agreed that the situation of OCSA in Nepal is alarming and is getting worse after the COVID-19 pandemic. Majority of the participants were able to identify the challenges to prevent, minimize and eliminate OCSA. For example, the lack of awareness about potential misuse of internet among the children and guardians, poverty, illiteracy and availability of free internet services were mentioned as key challenges. Furthermore, the participants also pointed to legal and societal barriers to fight against OCSA.

Institutional arrangements/Role of stakeholders:

Maximum number of participants of the FGDs thought that INGOs/NGOs are the major stakeholder of the OCSA followed by Cyber Bureau, police, schools, parents, governmental institutions and judiciary.

Majority of the participants knew as to where to make complaints against OCSA cases whereas very few of them had no idea on this. Some of the participants found the response of service provider as positive and others as 'not so encouraging'. Some had no opinion about the responsiveness of state and non-state institutions.

SN	Name of key Stakeholders	Major functions
1.	INGOs/NGOs	Immediate relief and rescue
2.	Cyber Bureau	Complaint handling
3.	Police	Complaint handling
4.	School	Preventive initiatives
5.	Parents	Preventive initiatives
6.	Governmental Institutions	Policy formulation, execution and legal actions
7.	Judiciary	Justice delivery and execution

Majority of the participants identified limited faith on justice system, lengthy and complex legal system, family and societal hate and threat, maintenance of confidentiality & privacy issues and time limitation as challenges of OCSA. It was also found that some participants had no idea about the issues and challenges of accessing justice.

Story 5: Two sisters trapped in an online child sexual abuse

Sima and Kiran (name changed) were sisters aged 19 and 12 respectively. The elder sister was comparatively more active and was inclined towards online activities. Sima and her boyfriend with their knowledge to browse the internet used to watch and share online pornography videos and links. One day, Sima and her boyfriend made a plan to ask her younger sister, Kiran to masturbate and to record it. Kiran did not feel comfortable with what her sister was making her to do so she shared it to her mother. Initially the mother was not convinced that her elder daughter could do so. Later when she checked Sima's mobile phone, she found the video of her younger daughter. The parents yelled at Sima for what she had done to her sister. They decided not to initiate the case thinking of their prestige. However both the sisters are receiving psychosocial counselling.

Experiences relating to OCSA and legal proceedings:

Half of the participants confessed that they had experienced OCSA at least once in their lifetime whereas half of the participants shared that they never had such experience but they knew the victims of OCSA. Amongst those who had faced the OCSA, majority of them did not communicate with their parents/

guardians about the OCSA incidents. The participants who shared their OCSA experiences, they found that their parents/ guardians were supportive of the victim. However, only one participant said that, he filed a case in the police with the support of his parents. Relating to challenges faced by the victims of OCSA, participants recognized different forms of challenges including health related issues and challenges which include loneliness, sadness, helplessness, depression, limited family/ societal support, human right violations and legal issues.

Policy frameworks:

Majority of the participants shared that they had only heard about existence of policy framework, punishment and penalty provisions to fight against the OCSA, however, very few participants were able to name the legislative frameworks and concerned provisions such as the Constitution, Cyber law and other laws. Majority of the participants were not in a position to offer policy reform suggestions as they didn't have depth knowledge on policy frameworks.

Way forward

Majority of the participants recommended to reform legal provisions which include victim centric penalty and compensation, effective and efficient implementation of existing legal provisions. Similarly, the participants also suggested to bring reform in the educational system with integration of social and moral values, child right friendly environment and behaviours, sexuality and sex education in academic curriculum at the school level. In addition, the participants also suggested for the reform of judicial system with focus on fair trial and transparency along with parental control on the use of internet.

4.2 Key Findings of FGDs with Parents

Research team reached 173 parents thorough 17 FGDs using a semi-structured questionnaire related to the OCSA.

General information relating to access to internet:

In 17 meetings, there were a total of 173 participants, almost all (172 individuals) said that they had access to internet. The majority of the participants accessed internet via Wi-Fi and a few, through mobile data. The participant parents said that they accessed internet for entertainment, communication, study and news.

General information on OCSA:

Majority of the consulted parents acknowledged that there is a high chance of OCSA to their children via internet. They also identified the forms of OCSA including seductive chats, sharing and receiving nude photos, sharing and/or receiving seductive photos, links, and emojis. Majority of the participants warned that, the situation of OCSA in Nepal is alarming however some of the participants highlighted that the situation of OCSA is only emerging as the internet usage in Nepal is still limited. Only two participants shared that they did not have any idea on the situation of OCSA. Relating to the challenges of OCSA or to raising voice against the OCSA or to eliminating the OCSA, majority of the consulted parents considered lack of awareness on the potential misuse of internet and knowledge about the existence of OCSA as key challenges.

Institutional arrangements/Role of stakeholders:

The participants identified police, NGOs and Cyber Bureau as the key stakeholders to combat the OCSA. In addition, they stated that the parents/guardians themselves, schools, teachers, human rights institutions were other stakeholders to respond to the OCSA. The participants considered that the key functions of the stakeholders included dissemination of information, complaint handling, placing preventive measures, rescuing victims/survivors.

Majority of the participants believed that Police, Cyber Bureau are the key complaint handling institutions in relation to the OCSA incidents whereas some of the participants stated that local governments, NGOs/INGOs and Courts were also responsible to combat the OCSA.

Majority of the participants were not aware of the modus operandi in relation to the OCSA and a few stated that there was no positive response from the concerned entities when cases were taken to them. Majority of participants opined that the OCSA response mechanisms were neither accessible nor capable of addressing the cases.

Majority of the participants did not have adequate information about the role of service providers. Only a few of them knew the role of the service providers as dissemination of information, counselling and legal assistance.

Majority of the participants identified limited public faith on judicial system, lengthy and complex judicial proceedings, family and societal constraints, discrimination, corruption and lack of awareness as key challenges to access justice.

Experience of OCSA and legal proceedings:

Majority of the participants were not in a position to make an opinion on the OCSA as they didn't have effective communication with their children on this matter. However, some of the participants shared that their children could have been victims of OCSA but they may not have acknowledged it. Similarly, majority of the participants assumed that their children might never have been victims of OCSA as they had very limited conversation with their children. The researchers also found that some of the parents were not in a position to explain the real scenario of the OCSA incident because of the children's unwillingness to share those situations. None of the participants seemed to have reported about OCSA incidents to concerned authorities.

Furthermore, some of the participants also highlighted that the victims of OCSA faced several challenges, such as family and social stigmatization, deteriorating physical and mental health, barriers to access legal remedies and further violation of human rights.

Policy frameworks:

Majority of the consulted parents were not aware of existing policies and legal provisions on OCSA. Few of them were able to name some legislative frameworks and provisions such as the Constitution, Cyber Laws. But none of the consulted parents were aware of any specific Act to deal with OCSA.

4.3 Key findings of survey with Children

Fig 1: Participants by gender and province

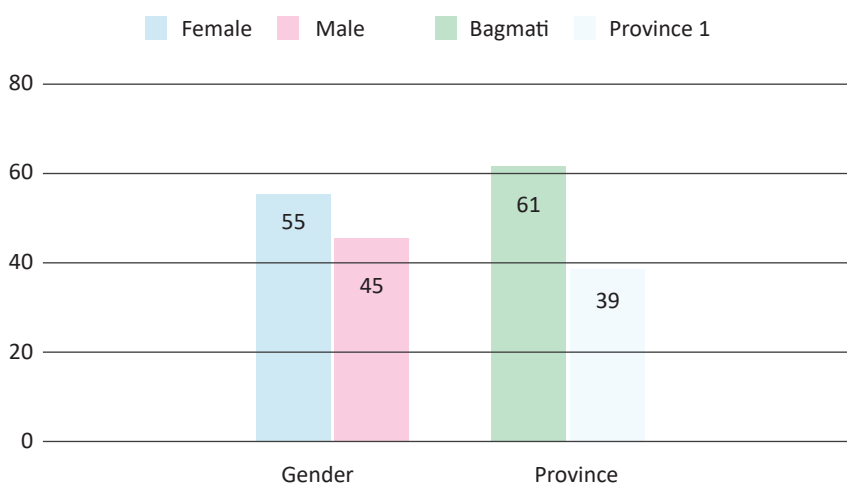
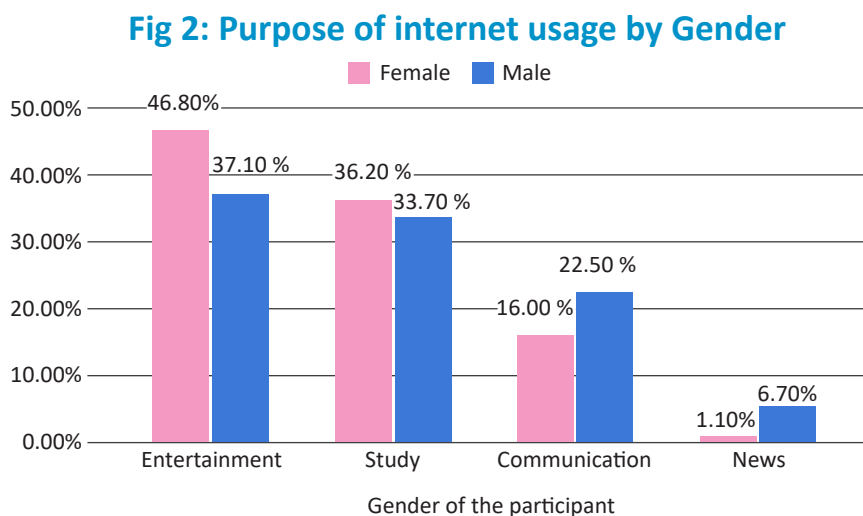


Figure 1 depicts the demographic profiles of survey respondents, i.e. 100 children who provided with information on their knowledge, attitude, practices, difficulties and obstacles and possible online child sexual abuse. Children from Bagmati and Province No. 1 (Koshi) participated in the survey. Out of 100 children, 55% were girls and 45%, boys.

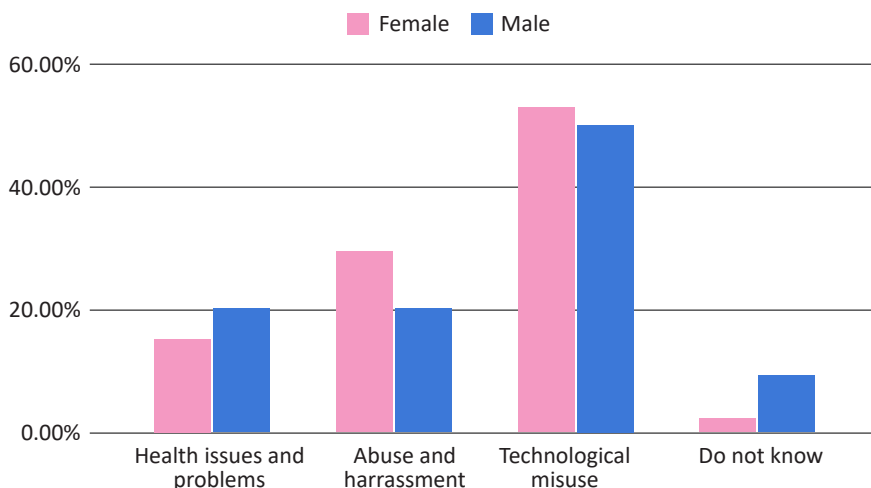
Medium of internet usage	No of responses
Only Wi-Fi	73
Only Mobile data	14
Both Wi-Fi and Mobile data	13
Total	100

Table 1 shows the proportion of children using Wi-Fi or mobile data or both for internet access.

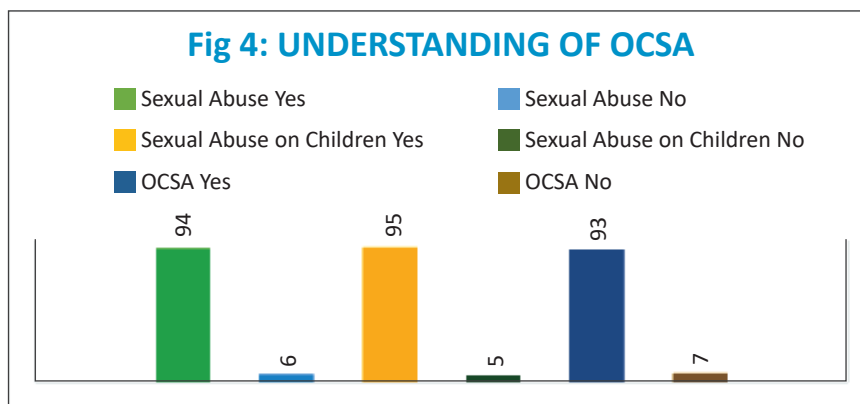


According to Figure 2 above, the internet was mainly used for entertainment, followed by study, communication and news. The proportion of boys using the internet for communication and news was higher than that of girls whereas the proportion of girls using the internet for entertainment and study was higher than that of boys.

Fig 3: Negative impact of Internet

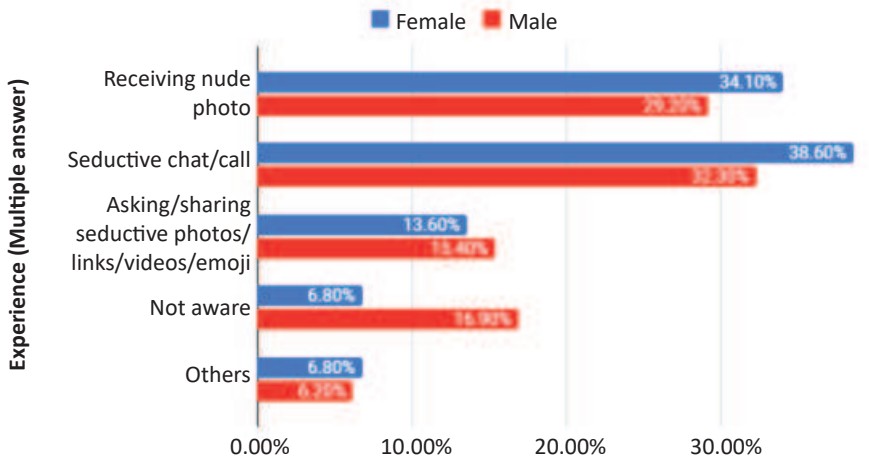


The Figure 3 shows that the children were aware of possible misuse of the internet. Leading adverse effects of the internet use were reported as technological misuse (55% girls, 50% boys), abuse and harassment and health issues and problems. Technological misuse meant to them like accounts hacking, manipulative Photoshop, followed by acts of abuse and harassment via internet. It is evident that higher number of girls are facing abuses and harassment from internet than that of boys.



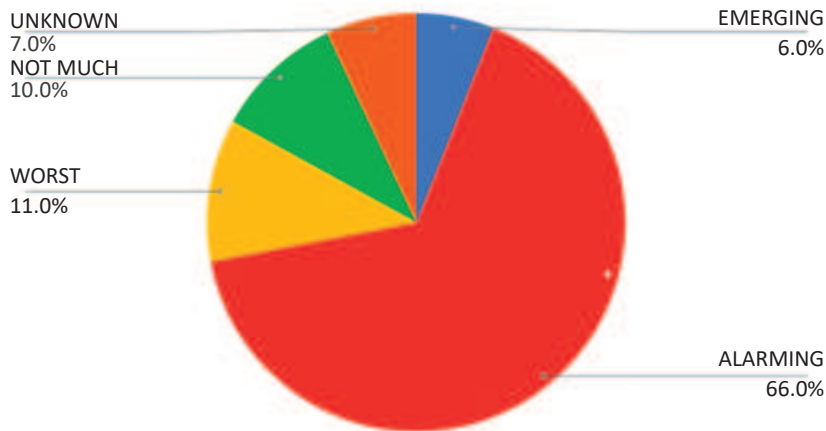
The Figure 4 shows that 94% of the respondents were aware about sexual abuse, 95% of them were aware about child sexual abuse and 93% were aware about OCSA.

Fig 5: OCSA faced by children



The Figure 5 shows that 38.60% of surveyed girls reported that they received seductive calls and chats, 34% of the girls received nude photos, 13.60% of the girls were asked to share seductive photos/links/videos/emojis and 6.80% mentioned that they had experienced OCSA in other forms than mentioned above. A total of 32.30% of boys mentioned that they had received seductive chats/calls, 29.20% had received nude photos, 15.40% were asked to share seductive photos/links/videos/emoji and 6.20% had faced others forms of OCSA.

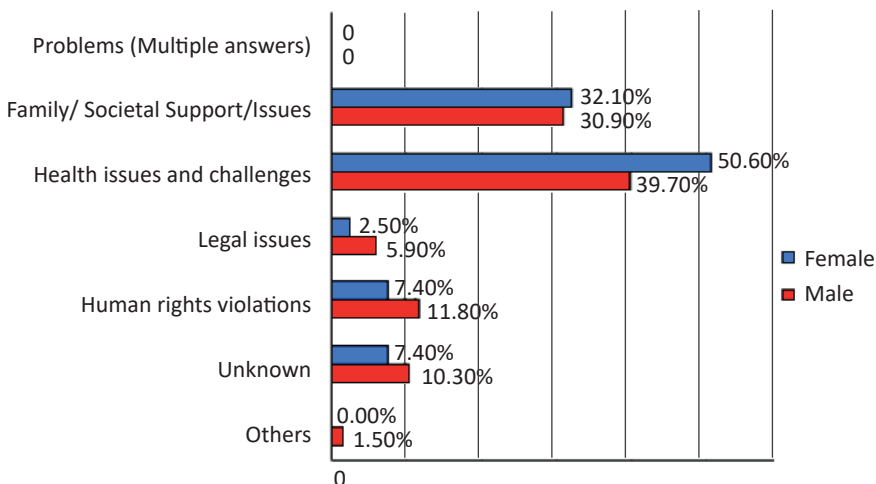
Fig 6: Situation of OCSA in Nepal



The Figure 6 shows that 66.0% of the total participants shared that the situation of OCSA was alarming while 11% shared that the situation was worst, 10%

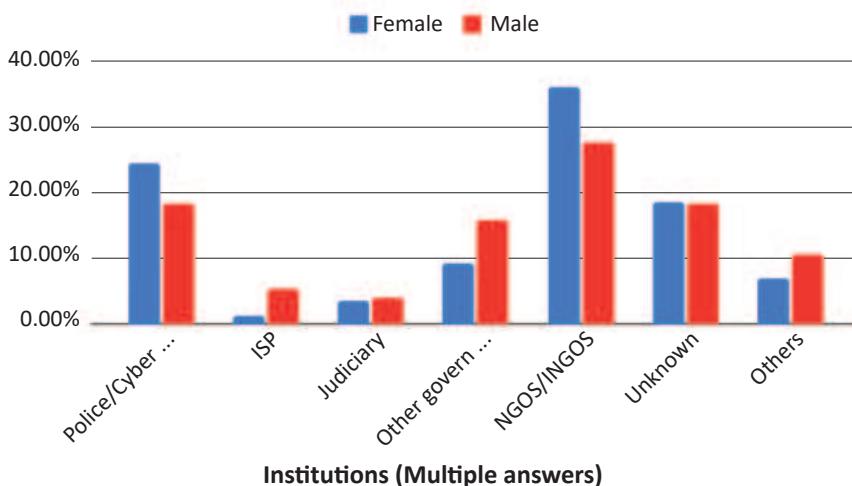
mentioned that there was not so much problem of OCSA and 7% were not aware about the situation of OCSA.

Fig 7: Challenges faced by Victim of OCSA by Gender



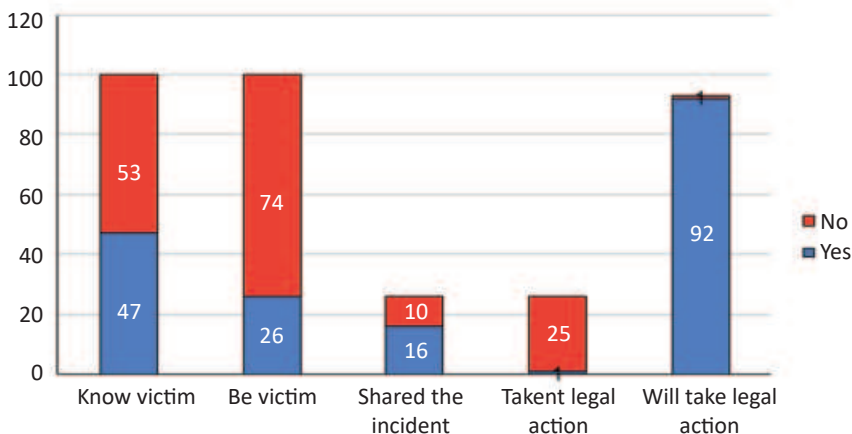
The Figure 7 shows that 50.60% of the girls shared that they faced health issues and challenges, 32.10% faced family/ societal support issues, 7.40% had their human rights violated, 2.50% had legal issues and 7.40% were not aware about the challenges of OCSA. Similarly, 39.70% of the boys shared that they faced health issues and challenges, 30.90% faced family/ societal support issues, 11.8% had their human rights violated, 5.90% had legal issues and 10.30% were not aware about the challenges of OCSA.

Fig 8: Knowledge of OCSA handing institutions



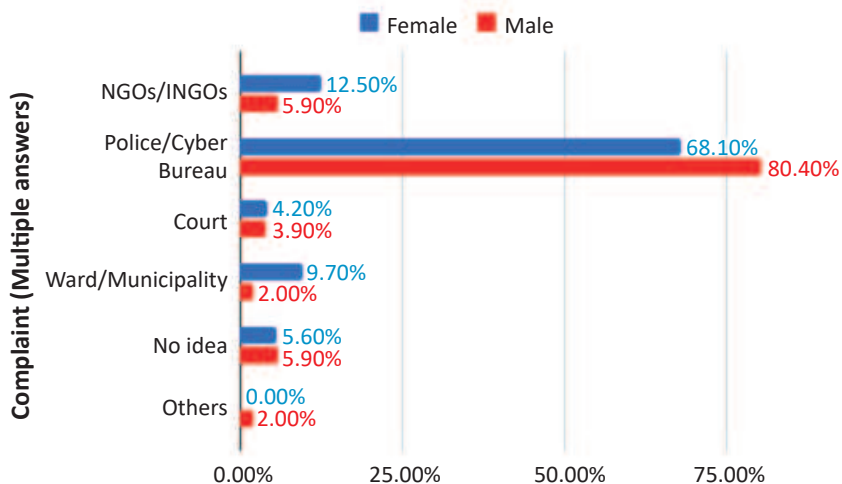
One of the most important issues pertaining to OCSA is about the level of knowledge on OCSA handling institutions. The Figure 8 above shows that 36.0% of the girls mentioned NGOs/INGOs, 24.40% mentioned police/ Cyber Bureau, 9% mentioned the governmental institutions, 3.50% mentioned judiciary, 1.20% mentioned ISPs, 7% mentioned other institutions as responsible for addressing OCSA and 18.60% were unaware of any institutions. Similarly, the percentage of boys considering NGOs/INGOs, police/ Cyber Bureau, governmental institutions, ISPs, judiciary and other institutions as responsible for addressing OCSA was 27.60%, 18.40%, 15.80%, 5.30%, 3.90% and 10.50% respectively, and 18.40% were unaware of any institutions.

Fig 9: Experience on OCSA



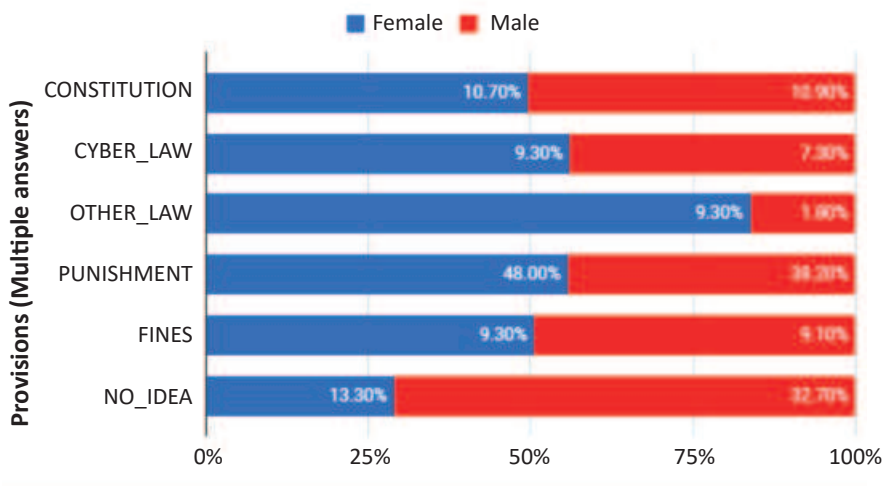
The Figure 9 shows that 47% of the respondents had seen or known victims of OCSA, 25% of them had become a victim of OCSA, and 16% had shared about the incident with their parents. In spite of having knowledge about the institutions or law, only 1% had initiated to take legal actions. When asked about their willingness to take legal actions against perpetrators, 92% of the children expressed that they were willing and 6% were uncertain about taking legal actions in future too.

Fig 10: Institution to File Complaint against OCSA



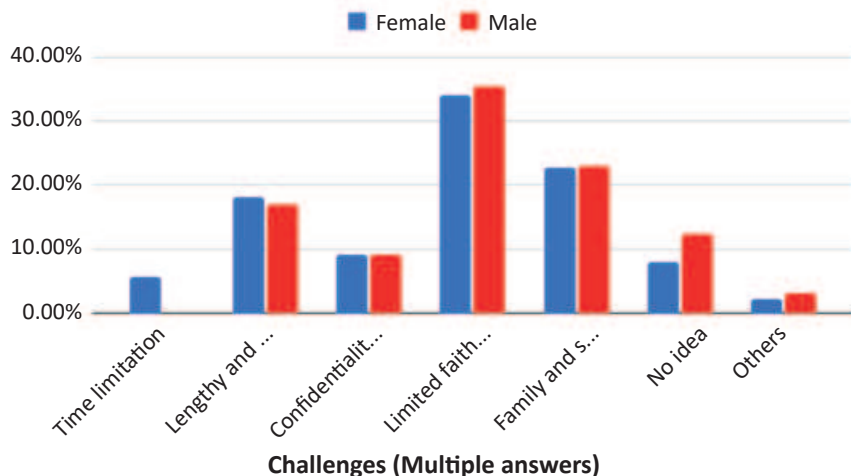
The Figure 10 shows that 80.40% of boys and 68.10% girls mentioned that Police/Cyber Bureau were the institutions to lodge complaints of OCSA. The percentage of other institutions mentioned by the respondents as OCSA complaints taking was quite low as shown in the Figure above.

Fig 11: Current legal provision against OCSA



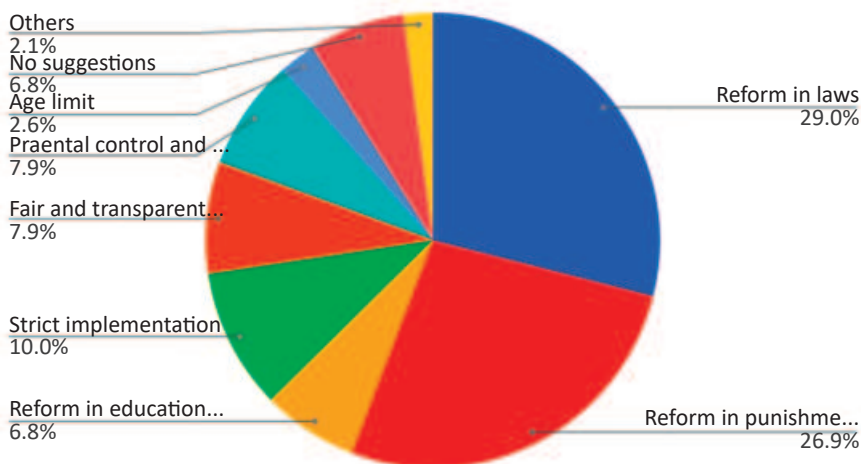
The Figure 11 shows that nearly the equal percentage of boys and girls knew about the constitutional provisions on and fines for OCSA. In other provisions, the boys and girls seemed to have different perspectives as reflected in the above Figure.

Fig 12: Challenges in accessing justice



As the Figure 12 shows that the challenges in accessing justice to the children included limited faith on judiciary (34.10% girls, 35.40% boys), family and societal stigmatization (22.70% girls, 23.10% boys), lengthy and complex legal procedures (18.20% girls, 16.90% boys), confidentiality and privacy issues (9.10% girls, 9.20% boys), time limitation (5.70% girls) and other challenges (2.30% girls, 3.10% boys). Eight percent of girls and 12.30% boys had no idea about the challenges in accessing justice.

Fig 13: Recommendation



The Figure 13 shows some of the recommendations made by the survey respondents. Out of the total respondents, 29% recommended for reforms in

laws, 26.9% suggested to make reforms in punishment/ fines to perpetrators and compensation to the victims/survivors, 10% recommended for strict implementation of laws, 7.9% recommended for fair and transparent judicial system, parental control and limited use of internet, 6.8% recommended for reforms in education system, 2.1% mentioned others and 6.8% gave no feedback.

CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

Children are having uncontrolled access to the internet and are using different types of electronic devices, especially in the aftermath of COVID-19 pandemic. Increased access of children to internet opens unlimited opportunities for development and also exposes them to unprecedented risks including abuse, harassment, access to pornographic images and materials, dissemination of personal details to unwanted receivers, online fraud and cyber bullying, to name some.

It is also found from this research that most of the consulted parents are unaware about the online abuse of their children and are likely to be manipulated. Whether in urban or in rural settings, most of the parents are busy in their own businesses and are unable to spend quality time with their children, thereby lacking proper monitoring of their activities and guidance to them. These parents also lack knowledge about parental control tools in the internet contents.

Similarly, in many urban areas, due to limited public space and outdoor activities for children, they are busy in online activities.

It is also found that the incidences of Online Child Sexual Abuse in Nepal are high irrespective of geographic regions. Moreover, in some instances, children are found to have generated pornographic contents on their own and disseminated knowingly or unknowingly.

Some forms of online child sexual abuse begin by creating fake accounts in social media, online harassment followed by blackmail through the use of internet. Abusers publicly share online personal messages in order to create fear in the victims so that undue advantage can be taken from them. Editing photos with the help of advanced software and threatening the victims to leak their naked photos are common forms of OCSA.

Similarly, making vulgar comments, sharing adult videos as well as leaking personal information after break-ups in relationships are other forms of online child sexual abuse.

Abusers persuade children to show their body parts in social media and chatting apps. Online game fights, use of abusive words online and talks about sex and other vulgar activities are also becoming common. Abusers use different tone of language and they try to defame victims. Sometime abusers share porn videos, and ask the children to show their private body parts.

Body shaming, phishing, hacking of profiles, cyber bullying, sharing uncensored contents are mostly used forms of online child sexual abuse. Unknown people send friend request and after accepting the request, they start sending unwelcome videos, pictures and words. They at times show fake love in the social media. Sometimes sending artificial gifts from online, friends doing prank, trapping, calling children to meet and conduct activities relating to abuse are considered to be online child sexual abuse. Some of the other forms of online child sexual abuse are as follows:

Key Forms of Online Child Sexual Abuse

1. **Photos:** Clicking photos without consent, asking for nudes pictures etc.
2. **Audio/ videos:** Sending porn videos, asking to show private body parts in video call, frequent video calls or send unusual videos.
3. **Signs, symbols, and stickers:** Using abusive words, showing middle fingers, showing temptation, showing fake desires, sending adult emoticons.
4. **Verbal sexual abuse:** Phone sex, slang words, sexual topic conversation, audio romance in application online, online sex trade.
5. **Sexual abuse in written form:** Random friend requests, posting adult contents on social media, giving psychological torture by frequently sending messages, sharing Facebook IDs, blackmailing children using their personal information, posting data or personal/confidential information in social media, using personal information for defamation, making unknown friends, chatting, sending gifts, intimacy development, online dating.

It is observed that the children sometimes have shared about online child sexual abuse with their parents. Normally, in comparison to the girls, boys were hesitant to share these problems with their guardians. Since the parents are concerned about their children, the teenagers think that the parents would be worried about the issue and decide not to share.

It is found that there is fear of prestige while filing cases of child sexual abuse. Neighbours/ society are not supportive to the victims. The victims are often blamed by the families, schools and society for any wrongs.

Moreover, it is also found that in some cases, male school teachers are found to be child sexual abusers. In some cases, the perpetrators are from within the family which complicates things.

There are different governmental organizations to look into OCSA and some non-governmental organizations working on the issue. Police can register and investigate into complaints relating to OCSA under the Electronic Transaction Act however there are many challenges, such as:

- ◆ Cyber bureau in Nepal Police is situated in Kathmandu and it is difficult for victims of other places to have direct access to it.
- ◆ Statute of Limitation to file a complaint under the Electronic Transaction Act is 35 days, which is mostly challenging to meet.

Internet service providers (ISPs) are also a key stakeholder to respond to the issues of OCSA, however, there is limited understanding about online child sexual abuse among them. Moreover, there is limited regulatory mechanism and policy infrastructure to respond to the OCSA.

List of responsible authorities for OCSA is given in Annex XII.

The adjudicative mechanisms are also in place to deal with the issue of OCSA: The Attorney General is the main advisor of the Government of Nepal responsible to give advices on constitutional and legal issues. The Constitution has given rights to the Attorney General to decide whether to proceed or not in cases where there is an interest or concern of the GoN. The Government Attorneys are under the Office of the Attorney General. Without the advice of Attorney General the cases filed by GoN cannot be withdrawn.

Crime Investigation Department (CID), Women and Children Service Directorate (WCSD), Central Investigation Bureau (CIB) and Metropolitan

Crime Control Division (MCCD) are the important organs within the Nepal Police. The CID works on developing policies relating to crime investigation, directs the offices under its authority, monitors as well as manages other works relating to crime control and investigation.

The Cyber Bureau within the Metropolitan Police Range, of Nepal Police is responsible for complaints handling and investigate various forms of cybercrimes such as online exploitation, identity theft, cyber bullying and harassment including those related to the children.

Although Provincial Police Offices have been created, they are not equipped to handle cases of online exploitation. Cases of all over Nepal are directed to Kathmandu.

The Kathmandu District Court is the only court in Nepal postulated as the interim tribunal under the Electronic Transaction Act, 2006 for prosecution and adjudication of online exploitation related cases until a special judicial body is established.

The findings and analysis of research is based on the different types of respondents in terms of first-hand information which includes stakeholders, rule of law and justice sector actors, parents, children and specific groups of LBGTIQ thus there may be contradiction and inconsistency in some of the issues and areas of the study.

Based on findings and their analysis, it appears that children are vulnerable to exposures of sexual abuse. Prompt steps need to be taken in line with the following recommendations:

5.2 Recommendations

Policy recommendations:

- ◆ It is recommended to formulate an umbrella Act having special provisions/sections relating to *Online Child Sexual Abuse* by defining and incorporating various issues to protect against OCSA;
- ◆ Alternatively, it is recommended to address the gaps through a consultative process and incorporate them into the Act Relating to Children, 2018 that addresses online child sexual abuse;

- ◆ It is recommended that a Child Psychologist is kept in the complaint registration to the hearings processes relating to OCSA and make sure that is within the framework of law.

General recommendations:

- ◆ It is recommended that awareness and educational reforms programs are implemented in coordination with different stakeholders including parents, children, Ministry of Education, provincial and local governments.

Capacity enhancement of key service providers and stakeholders:

Key Services Providers

- ◆ Develop a training manual and orient key services providers including police, court, public prosecutors, defence lawyers on OCSA
- ◆ Orient other concerned stakeholders, e.g. teachers, hospitals, community level networks, child clubs, shelter providers, ISPs on OCSA

Recommendation for institutional reform and effective implementation

- ◆ Complain handling mechanism should be placed at least at the district level (registration, investigation and prosecution);
- ◆ Digital forensic lab should be strengthened and tasked to support investigation of OCSA cases;
- ◆ Complain mechanism should be handled under Act Relating to Children, 2018
- ◆ Shelter home and social reintegration activities should be fully implemented;
- ◆ Benefits of Child fund should be extended to victims/survivors of OCSA;
- ◆ ISPs should be lobbied with to frame policies/guidelines to combat OCSA.

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अनुसुची – क

Key Informant Interview को लागि प्रश्नहरू

जानकारीको क्षेत्र	निर्देशित प्रश्नहरू
सामान्य	
अनलाइन बालयौन दुर्व्यवहार बारेको जानकारी तथा बिबरण	<ul style="list-style-type: none"> • बालयौन दुर्व्यवहार भन्नाले के बुझ्नुहुन्छ ? • तपाईंको विचारमा बालयौन दुर्व्यवहार अनलाइन मार्फत पनि हुन सक्छ ? • यदि हुन्छ भने अनलाइन मार्फत कस्ता कस्ता प्रकृतिका बालयौन दुर्व्यवहार हुन्छन् वा हुन सक्छन् जस्तो लाग्छ ? • अनलाइन बालयौन दुर्व्यवहारको अवस्था नेपालमा कस्तो पाउनु भएको छ ? • अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धित सरोकारवालाहरूको को को हुन् ? • अनलाइन बालयौन दुर्व्यवहार सम्बोधन गर्न सम्बन्धित सरोकारवालाहरूको मुख्य भूमिका के हुन सक्छ ? • अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धित मुख्य चुनौती, मुद्दाहरू र समस्याहरू के के रहेको पाउनु भएको छ ? • बालयौन दुर्व्यवहारसँग सम्बन्धित समस्याहरूको निराकरण तथा निवारणका लागि के कस्ता अप्ट्यारा तथा चुनौतिहरू रहेको पाउनु भएको छ ? • अनलाइन बालयौन दुर्व्यवहारको सम्बोधन गर्न सम्बन्धित सरोकारवालाहरूको मुख्य भूमिका के हो ? • सम्बन्धित सरोकारवालाहरूले अनलाइन बालयौन दुर्व्यवहार सम्बोधन गर्न, रोक्न वा यससँग सम्बन्धित आवाज उठाउन के के गर्न सक्दछन् ?
नीतिगत ढाँचा र व्यवस्था	
	<ul style="list-style-type: none"> • तपाईंलाई अनलाइन बालयौन दुर्व्यवहार सम्बन्धी नेपालको कानून र नीतिको बारेमा केही जानकारी छ ? • नेपालको सन्दर्भमा अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न कुनै नीतिगत (संवैधानिक प्रावधान, कानून, नियम, नीति, कार्यविधि, रणनीति) व्यवस्था उपलब्ध छन्? छन् भने कस्ता छन्, कृपया बताउनुहोस्। • तपाईंलाई अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न उपलब्ध नीतिगत व्यवस्था पर्याप्त छ जस्तो लाग्छ ? • अनलाइन बालयौन दुर्व्यवहार सम्बन्धी उपलब्ध नीतिगत व्यवस्थामा रहेका प्रमुख समस्या, चुनौती र मुद्दाहरू बारेमा बताउनुहोस्।

संस्थागत व्यवस्था	
	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न के कस्ता संस्थागत व्यवस्थाहरू (संरचना, मानव संसाधन प्रावधान आदि) छन् ? कृपया तिनीहरू कुन कुन हुन् नाम सहित खुलाई दिनुहोस् र तिनीहरूको बारेमा विस्तृत चर्चा पनि गर्नुहोस् । • संस्थागत निकायहरूको सञ्चालन कसरी भइरहेका छन् सञ्चालन पद्धति वा तरिका (मोडालिटी) बारेमा कृपया विस्तृत रूपले भनि दिनु हुन्छ कि ? • संस्थागत संयन्त्रको उपलब्धता कस्तो रहेको पाउनु भएको छ ? • सर्वसाधारण मानिसहरूले यो सेवा लिन कतिको सक्छन् र यसको पहुँच कतिको छ भन्नेबारे तपाईंलाई थाहा भएको जानकारी दिनुहोस् ? • अनलाइन बालयौन दुर्व्यवहारको सन्दर्भमा तपाईंका कर्तव्य र जिम्मेवारी के के हुन् ? • अहिले सम्म अनलाइन बालयौन दुर्व्यवहारको व्यापकता सम्बोधन तथा नियन्त्रण गर्न तपाईंको अधिकार क्षेत्रभित्र पर्ने कामहरू तपाईंले के के गर्नु भएको छ ? • अनलाइन बालयौन दुर्व्यवहारको सम्बोधन तथा नियन्त्रण गर्न तपाईंको अधिकार क्षेत्रभित्र पर्ने कामहरू गर्दा तपाईंले भोग्नु परेको समस्याका बारेमा पनि केहि बताउनुहोस् ?
कार्यान्वयन	
	<ul style="list-style-type: none"> • तपाईंले व्यवहारमा सेवा प्रदायकहरूको भूमिका कस्तो पाउनुभएको छ ? • अनलाइन बालयौन दुर्व्यवहारका पीडितहरूलाई न्याय दिने काममा कस्ता कठिनाइ वा चुनौतिहरू छन् होला? (कार्यविधि वा प्रक्रियामा जाँदाका चुनौतिहरू, सेवाप्रदायकको क्षमता र बुझाइ, संवेदनशीलता र पद्धति, आदि)
अबको बाटो र सुझाव	
	<ul style="list-style-type: none"> • भविष्यमा तपाईं र तपाईं कार्यरत भएको संस्थागत निकायले अनलाइन बालयौन दुर्व्यवहारलाई नियन्त्रणमा राख्न के कस्तो दिशानिर्देशहरू र नीतिहरू अपनाउने छ ? • अनलाइन बालयौन दुर्व्यवहार सम्बन्धी नीति सुधारका लागि तपाईंको मुख्य सुझाव के छ ? • अनलाइन बालयौन दुर्व्यवहार प्रति तपाईंको समग्र सुझाव के छ ?

अनुसुची – ख

Focus Group Discussion बालबालिकाको लागि चेकलिस्ट

(यि प्रश्नहरू बालबालिकासँगको समूह बैठकको मार्गनिर्देशनका लागि तयार पारिएको हो जसको प्रयोग यस अनुसन्धानमा संलग्न मनोविद एवं अनुसन्धानकर्ताहरूले बाल सम्बेदनशिलता तथा अधिकारको पूर्ण रूपमा सम्मान हुने गरी प्रयोग गरिने छ ।)

जानकारीको क्षेत्र	निर्देशित प्रश्नहरू
सामान्य	
इन्टरनेट पहुँच सम्बन्धमा सामान्य जानकारी	<ul style="list-style-type: none"> • के तपाईं इन्टरनेटको पहुँचमा हुनुहुन्छ? वा तपाईंसँग इन्टरनेटको सुविधा छ ? • तपाईं इन्टरनेट कुन माध्यमबाट चलाउनुहुन्छ ? वाइफाइ, मोबाइल डेटा वा अन्य कुनै ? • तपाईं इन्टरनेट कुन प्रयोजनको लागि चलाउनुहुन्छ ? • तपाईंको विचारमा इन्टरनेटको के महत्व छ ? • के तपाईंलाई इन्टरनेटको नकारात्मक पक्षहरू पनि छन जस्तो लाग्छ? यदि छ भने यसका नराम्रा पक्ष तथा पाटोहरू के के होलान् ?
अनलाइन बालयौन दुर्व्यवहार बारेको जानकारी	<ul style="list-style-type: none"> • तपाईंलाई यौन दुर्व्यवहारबारे केहि जानकारी छ ? • बालबालिकाप्रति हुने यौन दुर्व्यवहारबारे पनि तपाइलाई केहि थाहा छ ? • इन्टरनेटको माध्यमबाट बालबालिकामाथि यौन दुर्व्यवहार हुने गर्दछ भन्ने कुरा के तपाईंलाई थाहा छ ? • कस्तो कस्तो कार्य, क्रियाकलाप, हाउभाउ वा के भयो भने तपाईंलाई आफु इन्टरनेटको माध्यमबाट यौन दुर्व्यवहारमा परे वा पर्न लागेको भन्ने महशुस हुन्छ ? • तपाईंलाई इन्टरनेटको माध्यमबाट बालबालिकाप्रति कस्ता कस्ता प्रकारका यौन दुर्व्यवहार हुन सक्छ जस्तो लाग्छ ? • तपाईंलाई नेपालमा अनलाइन बालयौन दुर्व्यवहारको अवस्था कस्तो छ जस्तो लाग्छ ? • तपाईंलाई अनलाइन बालयौन दुर्व्यवहारको मुख्य समस्या र यसबाट बच्न वा यसलाई हटाउन के कस्ता अप्ठ्याराहरू, चुनौतिहरू होलान् जस्तो लाग्छ ?

<p>अनलाइन बालयौन दुर्व्यवहारका सरोकारवालाको भूमिका</p>	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धित (यस विषयमा काम गर्ने) निकायहरु को को होलान् ? • यी निकायहरुले अनलाइन बालयौन दुर्व्यवहार सम्बोधन गर्न, रोक्न वा यससँग सम्बन्धित आवाज उठाउन के के गर्न सक्दछन् ?
<p>अनलाइन बालयौन दुर्व्यवहारका भोगाइ र कानूनी कारवाही</p>	<ul style="list-style-type: none"> • तपाईंले बालयौन दुर्व्यवहारमा परेको कोही साथीभाइ वा कुनै व्यक्तिलाई चिन्नुभएको छ ? • बालयौन दुर्व्यवहारमा परेको व्यक्तिले के कस्ता कठिनाई/समस्या तथा अप्ठ्याराहरु भोग्नुपरेको छ वा भोगिरहनु भएको छ होला जस्तो लाग्छ ? • के तपाईं कहिल्यै अनलाइन बालयौन दुर्व्यवहारमा पर्नु भएको छ ? • के तपाइले त्यस घटनाबारे आफ्नो अभिभावक वा आफन्तसँग कुरा गर्नु भएको छ? छ भने, उहाँहरुले के कस्तो प्रतिक्रिया दिनुभएको छ ? • आफूमाथि भएको कुनैपनि अनलाइन यौनदुर्व्यवहार विरुद्धमा कानूनी कारवाही गर्नुभएको छ ? • भविष्यमा यदि तपाईंमाथि अनलाइन यौनदुर्व्यवहार भएमा त्यस विरुद्ध तपाईं कानूनी कारवाही गर्नुहुनेछ ? • बालयौन दुर्व्यवहार सम्बन्धी समस्याहरु के के छन् होला ?
<p>नीतिगत ढाँचा र व्यवस्था</p>	
	<ul style="list-style-type: none"> • नेपालका अनलाइन बालयौन दुर्व्यवहार सम्बन्धी, हालको कानून र नीतिहरु के कस्तो छ, सो बारे तपाईंलाई थाहा छ ? के थाहा छ, बयान गर्नुहोस् । (जस्तो, अनलाइन बालयौन दुर्व्यवहार गर्ने व्यक्तिलाई कानूनले के गर्छ, केही थाहा छ ?) • नेपालको सन्दर्भमा अनलाइन बालयौन दुर्व्यवहार सम्बन्धी कुनै विशेष नीतिगत व्यवस्था छ ? छ भने के त्यो नीतिगत व्यवस्था पर्याप्त छ ? • अनलाइन बालयौन दुर्व्यवहार सम्बन्धी सम्बोधन गर्नको लागि तपाईंले आजसम्म के कस्ता चुनौति वा मुद्दाहरु फेला पार्नुभयो ?

संस्थागत व्यवस्था	
	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहार विरुद्ध काम गर्ने (सम्बोधन गर्न, पत्ता लगाउन) कस्ता संस्थागत व्यवस्थाहरू छन् ? के थाहा छ? कृपया तिनको नाम सहित विस्तृतमा भनी दिनुहोला ? • तपाईंलाई बालयौन दुर्व्यवहार सम्बन्धि उजुरी कहाँ (कुन निकायमा) दिनुपर्दछ भन्ने कुरा थाहा छ ? • संस्थागत निकायहरू कसरी सञ्चालन भइरहेका छन्, तिनको बारेमा कृपया विस्तृत जानकारी दिनुहोस् । • संस्थागत संयन्त्र कतिको उपलब्ध छ, मानिसहरूमा यो सेवा लिन सक्ने सामर्थ्य कतिको छ र यसको पहुँच कतिको छ, भन्नेबारे के तपाईंलाई थाहा छ ?
कार्यान्वयन	
	<ul style="list-style-type: none"> • सेवा दिने व्यक्तिहरूले कसरी काम गर्छन् भन्ने तपाईंलाई थाहा छ? तिनीहरूको भूमिका कस्तो पाउनुभयो ? • अनलाइन बालयौन दुर्व्यवहारका पीडितहरूलाई न्याय दिने काममा कस्ता कठिनाइ वा चुनौतिहरू छन् होला? (कार्यविधि वा प्रक्रियामा जाँदाका चुनौतिहरू, सेवाप्रदायकको क्षमता र बुझाइ, संवेदनशीलता र पद्धति, आदि)
अबको बाटो र सुझाव	
	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहार सम्बन्धि नीति सुधार गर्नको लागि के गर्नुपर्छ होला ? यसमा कृपया तपाईंको मुख्य सुझाव दिनुहोस् । • अनलाइन बालयौन दुर्व्यवहारलाई लिएर कृपया आफ्नो सुझाव दिनुहोस् ।

अनुसुची – ग

अभिभावकको लागि Focus Group Discussion को प्रश्न

जानकारीको क्षेत्र	निर्देशित प्रश्नहरू
सामान्य	
इन्टरनेटमा पहुँच	<ul style="list-style-type: none"> • के तपाईं इन्टरनेटको पहुँचमा हुनुहुन्छ ? वा तपाईंसँग इन्टरनेटको सुविधा छ ? • तपाईं इन्टरनेट कुन माध्यमबाट चलाउनुहुन्छ? वाइफाइ, मोबाइल डेटा वा अन्य कुनै ? • तपाईं इन्टरनेट के कति कारणले चलाउनुहुन्छ ? • तपाईंको विचारमा इन्टरनेटको के महत्व छ ?
अनलाइन बालयौन दुर्व्यवहार बारेको जानकारी	<ul style="list-style-type: none"> • के तपाईंलाई बालबालिकाहरूमाथि हुने यौन दुर्व्यवहारबारे थाहा छ ? • के तपाईंलाई इन्टरनेटको माध्यमबाट बालबालिकाहरू माथि यौन दुर्व्यवहार हुने गर्दछ भन्ने कुरा थाहा छ ? • अनलाइन बालयौन दुर्व्यवहारका कस्ता कस्ता प्रकारहरू छन् ? • तपाईंलाई नेपालमा अनलाइन बालयौन दुर्व्यवहारको अवस्था कस्तो छ जस्तो लाग्छ ? • अनलाइन बालयौन दुर्व्यवहारको मुख्य समस्या र यसबाट बच्न वा यसलाई हटाउन के कस्ता अप्ठ्यारा र चुनौतिहरू होलान् ?
अनलाइन बालयौन दुर्व्यवहारका सरोकारवालाको भूमिका	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धित सरोकारवालाहरूको को को हुन् ? अनलाइन बालयौन दुर्व्यवहारको सम्बोधन गर्न सम्बन्धित सरोकारवालाहरूको मुख्य भूमिका के हो ? • यी व्यक्तिहरूले अनलाइन बालयौन दुर्व्यवहार सम्बोधन गर्न, रोक्न वा यससँग सम्बन्धि आवाज उठाउन के के गर्न सक्दछन् ?

<p>अनलाइन बालयौन दुर्व्यवहारका भोगाइ र कानूनी कारवाही</p>	<ul style="list-style-type: none"> • तपाईंलाई आफ्नो बालबालिकामाथि अहिले सम्म अनलाइन यौन दुर्व्यवहार भएको छ जस्तो लाग्छ ? • के तपाईंको बालबालिकाले आफुप्रति भएको अनलाइन यौन दुर्व्यवहारको घटनाको बारेमा तपाईंसँग कुरा गर्नु भएको छ ? छ भने यस्तो समयमा तपाईंले कस्तो प्रतिक्रिया दिनु भएको थियो ? • के तपाईंले आफ्नो बालबालिकाप्रति भएको अनलाइन यौन दुर्व्यवहार विरुद्ध कुनै कानूनी कारवाही गर्नु भएको छ ? • के तपाईं भविष्यमा आफ्नो बालबालिका माथि त्यस्ता अनलाइन यौन दुर्व्यवहार भएमा, त्यस विरुद्ध कुनै कानूनी कारवाही गर्नु हुन्छ ? • तपाईंले बालयौन दुर्व्यवहारमा परेको कोही व्यक्तिलाई चिन्नुहुन्छ ? • उहाँले के कस्ता कठिनाईहरू भोग्नुभयो वा भोगि रहनुभएको छ ? वा • बालयौन दुर्व्यवहारमा परेको, तपाईंले चिन्ने व्यक्तिले के कस्तो चुनौति वा अप्ठेयाराहरू भोग्नुपर्छ होला ? • बालयौन दुर्व्यवहार सम्बन्धी समस्याहरू के के छन् होला ?
<p>नीतिगत ढाँचा र व्यवस्था</p>	
	<ul style="list-style-type: none"> • नेपालका अनलाइन बालयौन दुर्व्यवहारसम्बन्धी चलेको कानून र नीतिहरू के कस्तो छ, सो बारे तपाईंलाई थाहा छ ? के थाहा छ, बताउनुहोस् । (जस्तो, अनलाइन बालयौन दुर्व्यवहार गर्ने व्यक्तिलाई कानूनले के गर्छ, केही थाहा छ ?) • नेपालको सन्दर्भमा अनलाइन बालयौन दुर्व्यवहारसम्बन्धी कुनै विशेष नीतिगत व्यवस्था छ ? छ भने के त्यो नीतिगत व्यवस्था पर्याप्त छ ? • अनलाइन बालयौन दुर्व्यवहारसम्बन्धी काम र कुरा गर्नको लागि तपाईंले आजसम्म के कस्ता चुनौति वा मुद्दाहरू फेला पार्नुभयो ?
<p>संस्थागत व्यवस्था</p>	

	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारविरुद्ध काम गर्न (सम्बोधन गर्न, पत्ता लगाउन) कस्ता संस्थागत व्यवस्थाहरु छन् ? के तपाईंलाई थाहा छ ? कृपया तिनको नाम सहित विस्तृतमा भनीदिनुहोस् ? • तपाईंलाई बालयौन दुर्व्यवहारसम्बन्धी उजुरी कहाँ (कुन निकायमा) दिनुपर्दछ भन्ने थाहा छ ? • संस्थागत निकायहरु कसरी सञ्चालन भइरहेका छन्, कृपया तिनको बारेमा विस्तृत जानकारी दिनुहोस् । • संस्थागत संयन्त्र कतिको उपलब्ध छ, मानिसहरुमा यो सेवा लिन सक्ने सामर्थ्य कतिको छ र यसको पहुँच कतिको छ, भन्नेबारे के तपाईंलाई थाहा छ ?
कार्यान्वयन	
	<ul style="list-style-type: none"> • के तपाईंलाई सेवा दिने व्यक्तिहरुले कसरी काम गर्छन् भन्ने बारे थाहा छ ? तिनीहरुको भूमिका कस्तो पाउनुभयो ? • अनलाइन बालयौन दुर्व्यवहारका पीडितहरुलाई न्याय दिने काममा कस्ता कठिनाइ वा चुनौतिहरु छन् होला ? (कार्यविधि वा प्रक्रियामा जाँदाका चुनौतिहरु, सेवाप्रदायकको क्षमता र बुझाइ, संवेदनशीलता र पद्धति, आदि)
अबको बाटो र सुझाव	
	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारसम्बन्धी नीति सुधार गर्नको लागि के गर्नुपर्दछ ? यसमा कृपया तपाईंको मुख्य सुझाव दिनुहोस् । • अनलाइन बालयौन दुर्व्यवहारलाई लिएर कृपया आफ्नो सुझाव दिनुहोस् ।

अनुसुची – घ
सरोकारवालाहरूको बैठकको लागि चेकलिस्ट

जानकारीको क्षेत्र	निर्देशित प्रश्नहरू
सामान्य	
अनलाइन बालयौन निर्देशित प्रश्नहरू बारेको जानकारी	<ul style="list-style-type: none"> • तपाईंको विचारमा अनलाइन बालयौन दुर्व्यवहार भनेको के हो ? • अनलाइन बालयौन दुर्व्यवहारको अवस्था नेपालमा कस्तो छ ? • अनलाइन बालयौन दुर्व्यवहारका कस्ता कस्ता प्रकारहरू छन् ? • अनलाइन बालयौन दुर्व्यवहारको मुख्य समस्या र यसबाट बच्न वा यसलाई हटाउन के कस्ता अप्ठ्यारा र चुनौतिहरू होलान् ?
अनलाइन बालयौन दुर्व्यवहारका सरोकारवालाको भूमिका	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धित सरोकारवालाहरू को को हुन् ? अनलाइन बालयौन दुर्व्यवहारको सम्बोधन गर्न सम्बन्धित सरोकारवालाहरूको मुख्य भूमिका के हो ? • यी व्यक्तिहरूले अनलाइन बालयौन दुर्व्यवहार सम्बोधन गर्न, रोक्न वा यससँग सम्बन्धि आवाज उठाउन के के गर्न सक्दछन् ?
नीतिगत ढाँचा र व्यवस्था	
	<ul style="list-style-type: none"> • तपाईंलाई अनलाइन बालयौन दुर्व्यवहारसँग सम्बन्धि नेपालको कानून र नीतिको बारेमा केही जानकारी छ ? के कस्तो जानकारी छ, कृपया बताउनुहोस् । • नेपालको सन्दर्भमा अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न कुनै नीतिगत (संवैधानिक प्राबधान, कानून, नियम, नीति, कार्यविधि, रणनीति) व्यवस्थाहरू उपलब्ध छन् ? छन् भने कस्ता छन् ? • तपाईंको विचारमा अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न उपलब्ध नीतिगत व्यवस्था पर्याप्त छ ? • अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्दा तपाईंले आजसम्म कस्ता चुनौती र मुद्दाहरू फेला पार्नुभयो ?
संस्थागत व्यवस्था	

	<ul style="list-style-type: none"> • अनलाइन बालयौन दुर्व्यवहारलाई सम्बोधन गर्न के कस्ता संस्थागत व्यवस्थाहरू (नीति, कानूनी प्रावधान आदि) छन् ? कृपया तिनीहरू कुन कुन हुन् नाम सहित खुलाई दिनुहोस् र तिनीहरूको बारेमा विस्तृत चर्चा पनि गर्नुहोस् । • संस्थागत निकायहरू कसरी सञ्चालन भइरहेका छन्, तिनको बारेमा कृपया विस्तृत जानकारी दिनुहोस् । वा • संस्थागत निकायहरूको सञ्चालन पद्धति वा तरिका (मोडालिटी) बारेमा कृपया विस्तृत रूपमा बताईदिनुहोस् ? • संस्थागत संयन्त्र कतिको उपलब्ध छ, मानिसहरूमा यो सेवा लिन सक्ने सामर्थ्य कतिको छ र यसको पहुँच कतिको छ भन्नेबारे के तपाईंलाई थाहा छ ? • अनलाइन बालयौन दुर्व्यवहारको सन्दर्भमा तपाईंका कर्तव्य र जिम्मेवारी के के हुन् ? • अहिले सम्म अनलाइन बालयौन दुर्व्यवहारको व्यापकता सम्बोधन तथा नियन्त्रण गर्न तपाईंको अधिकार क्षेत्रभित्र पर्ने कामहरू तपाईंले के के गर्नु भएको छ ?
कार्यान्वयन	
	<ul style="list-style-type: none"> • तपाईंले व्यवहारमा सेवा प्रदायकहरूको भूमिका कस्तो पाउनुभएको छ ? • अनलाइन बालयौन दुर्व्यवहारका पीडितहरूलाई न्याय दिने काममा कस्ता कठिनाइ वा चुनौतिहरू छन् होला ? (कार्यविधि वा प्रक्रियामा जाँदाका चुनौतिहरू, सेवाप्रदायकको क्षमता र बुझाइ, संवेदनशीलता र पद्धति, आदि)
अबको बाटो र सुझाव	
	<ul style="list-style-type: none"> • भविष्यमा तपाईं र तपाईं कार्यरत भएको संस्थागत निकायले अनलाइन बालयौन दुर्व्यवहारलाई नियन्त्रणमा राख्न के कस्तो दिशानिर्देशहरू र नीतिहरू अपनाउने छ ? • अनलाइन बालयौन दुर्व्यवहार सम्बन्धी नीति सुधारका लागि तपाईंको मुख्य सुझाव के छ ? • अनलाइन बालयौन दुर्व्यवहारप्रति तपाईंको समग्र सुझाव के छ ?

अनुसुची – ड
कथा कथनको लागि साक्षात्कार प्रश्न

जानकारीको क्षेत्र	निर्देशित प्रश्नहरू
सामान्य	
अनलाइन बालयौन दुर्व्यवहार बारेको जानकारी	<ul style="list-style-type: none"> के तपाईंले अनलाइन बालयौन दुर्व्यवहार भएको ? यदि छ भने, के भएको थियो र तपाईंले त्यस्तो परिस्थितिसँग कसरी व्यवहार गर्नुभयो भन्नेबारे कृपया विस्तृत रूपमा बताउनुहोस् ।

भ्वाईस अफ चिल्ड्रेनको अभियान - बाल सुरक्षा र संरक्षण

अनलाईन यौन दुर्व्यवहार र शोषणमा परेका वा पर्न लागेका
बालबालिकाको सुरक्षा तथा संरक्षणका लागि

बाल हेल्पलाईन नम्बर - १०५८

बाल बालिका खोजतलास समन्वय केन्द्र - १०४

नेपाल प्रहरी, साईबर ब्यूरो - ५८५१२८६७७०

मानव बेचबिखन अनुसन्धान ब्यूरो - ११७७

प्रहरी हटलाईन - १००

**र नजिकको प्रहरी कार्यालयमा
फोन गरी सहयोग गरौं ।**

थप जानकारीको लागि

भ्वाईस अफ चिल्ड्रेन

केन्द्रीय कार्यालय, ललितपुर महानगरपालिका-१७, ग्वाको, ललितपुर

फोन नं.: ०१-५५४६३९०, ५५४८०१८, ५५२९९४९

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फोन नं.: ०२५-५८४८०२, ५८५०८९

बालबालिकाको तत्काल उद्धार, राहत र मनोविमर्शका लागि

बाल हेल्पलाईन नम्बर - १०५८, सुनसरी

(निःशुल्क फोन)