



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Reports of States parties due in 2012

**Bhutan\***

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\* The present document is being issued without formal editing.

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## List of Acronyms

ADR	Alternative Dispute Resolution
BNLI	Bhutan National Legal Institute
CAA	Child Adoption Act 2012
CBSS	Community-Based Support System
CCPA	Child Care and Protection Act 2011
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CMA	Commission for Monastic Affairs
CPRD	Convention on the Rights of Persons with Disabilities
CRC	Convention on the Rights of the Child
CWC	Child Welfare Committee
DAHE	Department of Adult and Higher Education
DAISAN	Druk Adolescent Initiative for Sexual Awareness Network
DCRC	Department of Civil Registration and Census
DoI	Department of Immigration
LEA	Labour and Employment Act 2007
MoE	Ministry of Education
MoEA	Ministry of Economic Affairs
MoH	Ministry of Health
MSTF	Multi-Sectorial Task Force
NACG	National Action and Coordinating Group
NCWC	National Commission for Women and Children
NFE	Non-Formal Education
NPACP	National Plan of Action on Child Protection
NPSTC	Nazhoen Pelri Skills and Training Centre
OSCC	One Stop Crisis Centre
PCB	The Penal Code of Bhutan 2004 and (amendment) 2011
POSYPP	Police and Out-of-School Youth Partnership Program
PYPP	Police-Youth Partnership Program
RBP	Royal Bhutan Police
RENEW	Respect, Educate, Nurture and Empower Women
SAARC	South Asian Association for Regional Cooperation
SAF	South Asia Forum
SAIEVAC	South Asia Initiative to End Violence Against Children
WCPD	Women and Child Protection Desk
WCPU	Women and Child Protection Unit
TOT	Training of Trainers
YDF	Youth Development Fund
YDRC	Youth Development and Rehabilitation Centre
Y-VIA	Young Volunteers in Action

## Part I. General Guidelines

1. Bhutan ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (referred hereafter as the Optional Protocol) on 26<sup>th</sup> October 2009.
2. This report outlines the laws, policies and programs that serve to implement the Optional Protocol. It was prepared in consultation with child protection focal persons (see annexure 1) from government and non-government organisations that are responsible for mainstreaming child rights issues into sector policies and plans.
3. Examples of measures and implementation were drawn from interviews with the child protection focal persons and literature review of relevant documents.
4. International human rights treaties that Bhutan ratifies apply nation-wide. However, they do not automatically become a part of the country's law. Article 10 (25) of the Constitution of the Kingdom of Bhutan, 2008 (referred hereafter as Constitution) stipulates that international conventions, covenants, treaties, protocols and agreements shall be deemed law only after the Parliament's ratification of them. National Assembly and National Council members unanimously ratified the Optional Protocol without any reservation.
5. Article 7 (Fundamental Rights), Article 8 (Fundamental Duties) and Article 9 (Principles of State Policy) of the Constitution spell out the fundamental principles of human rights provisions of the international conventions that Bhutan is party to. They are consistent with the right to protection under the Convention on the Rights of the Child, hereafter referred to as the Convention, including protection from injury, killing and torture, which has been outlined under Article 8 (5) of the Constitution. Article 9 (18) of the Constitution provides for the protection of children from all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.
6. Ratification of international human rights treaties and other international instruments entails the need for the country to draft new laws that uphold these treaties and protocols. Provisions within relevant national laws are subsequently amended in accordance with the principles of international treaties and instruments. The Child Care and Protection Act (CCPA) and Child Adoption Act (CAA) were passed in 2011 and 2012 respectively, to consolidate and provide care, protection, guidance, counselling and rehabilitation, among others, to children in conflict with law and children in difficult circumstances in the most favourable manner and in the best interests of the child.
7. The CCPA has clearly defined children as any person under the age of 18 years of age which is in line with Article 1 of the Convention.
8. The CCPA has emphasised that the best interests of the child shall be of primary consideration in all matters relating to the child. The determination of the best interests of the child has been elaborated under Chapter 2 of the Child Care and Protection Rules and Regulations 2015 (CCPRR), which also provides for the protection of child victims and witnesses. In line with the provisions under the Protocol and the Convention, the CCPA and CCPRR both provide for the child's right to correct and appropriate information and place emphasis on the requirement for respecting the views of the child in all decisions taken with regard to the child.

9. The general challenges and limitations in collecting data and information from stakeholders include lack of capacity and understanding on addressing protection issues for children, comprehensive coordination mechanism and disaggregated data on childcare and protection.

## **Part II. Data**

10. The report was prepared in compliance with the revised guidelines (No.CRC/C/OPSC/2 dated 3 November 2006) to put together initial reports State Parties are required to submit. The requirement is stipulated under Article 8, paragraph 1, of the Optional Protocol the committee adopted during its 43rd session of September 29, 2006.

11. The study is based on consultations with various organisations, agencies and stakeholders working on the promotion and protection of child rights. A detailed desk review of existing documents on child rights and other relevant reports was conducted. Members of Parliament and the judiciary were interviewed to understand the processes involved in facilitating implementation of these laws.

12. The main source of data relevant to this report was sought from the Royal Bhutan Police (RBP). Child protection cases across the country are usually referred to the police for investigation and assessment. Cases involving children and women are referred directly to the Woman and Child Protection Unit (WCPU) of the RBP. The RBP crime branch maintains profiles of repeat offenders, or criminals who have committed crimes against women and children more than once. This is done through the Crime and Criminal Information System (CCIS).

13. The Penal Code of Bhutan (PCB) 2004 and its amendment of 2011 prohibit exploitation of child rights through several provisions. Offences on sexual exploitation of children under 18 years through prostitution vary from promoting prostitution to patronising a prostitute and trafficking of a person for prostitution.

14. Records maintained with the RBP show there were 35 reported cases of rape of minors in 2013 and 13 cases of alleged rape until May 2014. Both the RBP and the judiciary have no record of cases relating to child prostitution.

15. RBP recorded one case of child trafficking, which involved a girl-child in 2007. In 2010, it recorded two, both of which were female.

16. The Department of Immigration (DoI) officials, who monitor the various checkpoints in the country against illegal immigration, keep watch on possible cases of trafficking in persons. The DoI has no record of trafficking in persons.

17. Child labourers are identified through random inspections that labour inspectors carry out in formal sectors. The labour inspectors, following written complaints also carry out investigations.

18. No incident of child pornography, in any form, has been recorded with the RBP, judiciary, NCWC and other relevant stakeholders. The Ministry of Home and Cultural Affairs (MoHCA), Ministry of Economic Affairs (MoEA) and Ministry of Finance (MoF) have no records of interceptions/seizures of child pornography material from visitors into the country.

19. There is no reported case of sale of children, child prostitution and child pornography with RBP and other relevant agencies.

### Part III. General Measures of Implementation

20. As a commitment to the CRC, Bhutan enacted several new legislations and made amendments to existing legislations that addressed the requirements within the Convention. New legislations included the CCPA, CAA and Domestic Violence Prevention Act, 2013 (DVPA). Amendments were made to the PCB 2004 and the Civil and Criminal Procedure Code, 2001 (CCPC).

21. The NCWC drafted three rules and regulations to enable effective implementation of the three new legislations mentioned above. The rules and regulations were drawn up following consultations with representatives from the Parliament as well as government and non-government organisations. Representatives from development partners like the UNICEF, UNDP and the UNFPA were also consulted before finalising the rules and regulations.

22. The NCWC has conducted capacity building programs and carried out other initiatives to institutionalise the child protection system. The Committee of Secretaries (COS) endorsed the report on the Mapping and Assessment of Child Protection System, which included the National Plan of Action on Child Protection (NPACP) as a guideline to mainstream protection issues for children into the sector 11<sup>th</sup> Five Year Plans. The document shall be used as a guideline by all relevant sectors in mainstreaming child protection privileges into five-year plans.

23. The CCPA was enacted after the ratification of the two Optional Protocols. It was drafted in line with the CRC and the Optional Protocol. The CCPA provides the legal framework to effectively discharge necessary protective and response services that children in difficult circumstances require.

24. Educational institutions are required to rehabilitate and provide continuing education to children in difficult circumstances. The media, on their part, are mandated to maintain professional standards, including privacy in reporting cases of children in difficult circumstances and uphold the best interest of children in all publicity concerning children.

25. The CCPA calls for communities, families, volunteers, voluntary or civil society organisations, social institutions and other community resources to participate in support programs and measures for children. Establishing community development centers, recreational facilities and contributing effectively to the rehabilitation of children in difficult circumstances and in conflict with law are some of the support programs. The government and non-governmental agencies are designated to emphasise preventive policies facilitating social reintegration.

26. Sections 49 to 52 of the CCPA require building remand and special homes, closed facilities and aftercare homes for children in conflict with law and children in difficult circumstance. The government in 2012 handed over the operation of the government-run transit shelter for children along with funding and equipment support to a CSO called Respect Educate Nurture and Empower Women (RENEW). Today, the RENEW provides shelter to victims reported to them.

27. The RBP has also established three WCPUs and six Women and Child Protection Desks (WCPDs) providing shelter to victims reported to them. The CCPA requires having WCPU or WCPDs at every police station. Much before the Act was passed, RBP had already established a WCPU in Thimphu in 2007 with financial assistance from NCWC and UNICEF to investigate cases relating to women and children. A separate WCPD was created in the RBP headquarters under crime and operation branch. Officials manning the units and divisions are equipped with basic skills to handle cases relating to violence

against women and children. There exists a separate detention cell for women and children in Thimphu and Paro.

28. Section 38 of the CCPA requires the establishment of a Child Justice Court. Sections 40 and 41 outline the requirements for regular courts to address cases related to children as per procedures outlined in the CCPA. While Bhutan National Legal Institute (BNLI) is in the process of consultation to establish a child justice court, regular courts today adjudicate the cases involving children as per CCPA.

29. Section 55 of the CCPA requires establishment of a Child Welfare Committee (CWC). The committee is responsible for advising the competent authority on matters of establishing and maintaining homes, mobilising resources, providing facilities for assistance, protection, education and training of children in difficult circumstances. The committee's advisory role extends to education, training and rehabilitation of children in conflict with law and coordination among agencies involved. To strengthen coordination at the local level, the NCWC is in the process of establishing the Multi-Sectorial CWC.

30. In keeping with the Optional Protocol, the CAA was enacted on January 5, 2012. The CAA provides the legal framework to ensure welfare of children adopted through procedures designed for both Bhutanese nationals and foreigners. The CAA upholds the principle of the "best interest of the child" and provide for procedure and mechanism to facilitate monitoring and prevention of abduction, sale or trafficking of children.

31. As per Child Care and Protection Rules and Regulations (CCPRR), an assessment of a child is to be conducted in consultation with relevant members of the District Child Welfare Committee and other relevant personnel if required, to determine whether he/she is in difficult circumstances as defined under Section 59 of the CCPA.

32. Some of the amendments made in the provisions of PCB to accommodate child protection rights were:

(a) Replacing the subtitle, Juvenile Delinquency and mental disability with "child in conflict with law" (Section 114);

(b) Rising the age to hold a child liable for offences from 10 years and below to 12 years and below (Section 114);

(c) Sentencing a child in conflict with law to a minimum of half the sentence prescribed for actual offence only if the defendant is a child above 12 years. Before amendment, it was above 10 years (Section 115);

(d) Strengthening the law by adding that those recruiting, harbouring or receiving a person through use of threat or force or deception, besides just transporting, selling or buying for illegal purpose of exploitation would also be found guilty (Section 154);

(e) Revising the offence of statutory rape, to a felony of first degree from that of second degree (Section 182);

(f) While "rape of a child above 12 years" would be that of a defendant committing any act of sexual intercourse against a child between 12 and 18 years, the new PCB, however, states consensual sex between children of 16 years and above shall not be deemed rape (Section 183);

(g) Changing to second-degree felony the offence of rape of a child above 12 years, from a felony of third degree (Section 184);

(h) Changing the offence of gang rape of a child below 12 years to be "punishable with life imprisonment" instead of first-degree felony under the initial provision (Section 192);

(i) The offence of gang rape of a child above 12 years and below 16 years was raised to a first-degree felony from a second degree one. The offence of gang rape of a child above 16 years and below 18 would be a felony of second degree (Section 193).

33. The LEA prohibits “worst forms of child labours” by deterring sale and trafficking, forced or compulsory labour, including recruitment for use in armed conflict.

34. Section 9 of LEA prohibits a person from subjecting a child to the use, procuring or offering of the child for prostitution or pornography. It further prohibits a child to unlawful confinement, which may expose a child to physical, psychological or sexual abuse. The offence shall amount to an offence of third degree felony.

35. The following table provides details of legislations and relevant provisions on the sale of children, child pornography and child prostitutions and other related child care and protection issues:

Table 1  
**Legislations and relevant provisions**

<i>Legislation</i>	<i>Relevant Provisions of Optional Protocol</i>
Penal Code of Bhutan 2004 and its Amendment in 2011	Chapter 9. Section 114 – 117, Child in conflict with law Chapter 13. Section 163 – 168, Kidnapping and abduction Chapter 14. Section 177 – 208, Rape, injury, Child Molestation, Sexual Harassment and Incest Chapter 15. Section 215 – 228, Abandonment of a Child, Child abuse, Endangerment of a Child, Paedophilia and Trafficking of a Child Chapter 26. Section 376 – 390, Child Prostitution
Labour and Employment Act 2007	Chapter 2. Section 9. Prohibition of worst form of Child labour
Constitution of the Kingdom of Bhutan, 2008	Article 6. Citizenship, Article 7. Fundamental rights and Article 10. Principle of State Policy
Royal Bhutan Police Act 2009	Chapter 12. Section 85. Prohibiting use of handcuffs and other means of restraint to Children
Prison Act 2009	Chapter 5. Section 32 (b). Separation of juvenile prisoners from others, Section 36. Upkeep and custody of children of prisoners and Chapter 16. Youth Development, Rehabilitation Centres and Juvenile delinquents
Child Care and Protection Act 2011	Covers all child related protections
Child Adoption Act 2012	Covers provisions on Pre-adoption process, Domestic and Inter-Country adoption, Consent, Effects and Offences

36. Bhutan’s legal system has a four-tier court system. The Supreme Court is the highest appellate body, followed by the High Court, District Court and Sub-District Courts. There are no courts and tribunals of special jurisdiction in Bhutan. Cases in violation of constitutional provision are directly forwarded to the High Court.

37. The following table outlines the government organisations responsible for addressing the provisions in the Optional Protocol along with any coordinating mechanisms that exist internally.

Table 2  
**Responsibilities and coordination mechanisms**

<i>Category</i>	<i>Respective agencies</i>
Child labour	MoLHR, NCWC, MoHCA
Harmful cultural practices (child marriage, gender discrimination)	NCWC, MoHCA, RBP, Commission for Monastic Affairs (CMA)
Physically abused/sexually abused/psychologically abused/severely neglected children	NCWC, MoHCA, Ministry of Health (MoH), CMA (lead for child monks and nuns only)
Children without adequate family care or alternative care	NCWC, MoHCA, CMA (lead for children who join monastic institutions due to lack of parental care)
Child mobility and Trafficking	NCWC, MoHCA, MoH, MoLHR
Commercial sexual exploitation	NCWC, MoHCA, MoH, MoLHR
Children and justice	Royal Court of Justice, NCWC, MoHCA, RBP
Child protection in emergencies/armed conflict	NCWC, MoHCA, MoH, CMA (for child monks and nuns only)
Child monks and nuns	CMA, NCWC, MoHCA

## Part IV. Prevention

38. Mapping and Assessment Workshop held in November 2011 and a subsequent Mapping and Assessment Report required the establishment of a Child Protection System. The Child Protection System is a partnership between the Government, local communities and other partners addressing child protection issues to ensure their wellbeing and happiness. The Mapping and Assessment Workshop provides comprehensive information on protection of children through laws, policies, regulations and services among others.

39. RENEW uses its community service and Community-Based Support System (CBSS) as a primary method of deterring domestic violence. It also considers issues pertaining to child right in various communities. The organisation has volunteer groups called 'Friends of RENEW' who are entrusted with the responsibility of working as interface between their community and RENEW. The organisation provides scholarships and counselling services to children with disabilities. It has formed the youth network of Druk Adolescent Initiative on Sexual Awareness Network (DAISAN) to ensure children's issues are incorporated into national policies.

40. To have a good legal environment to deter and punish offenders and establish services for support, sensitisation programs for people at decision-making levels are carried out. The government in collaboration with the United Nations Office on Drugs and Crime and Nedan Foundation, organised an anti-human trafficking sensitisation workshop for law enforcement officers and other stakeholders in Phuentsholing. Nedan Foundation is an NGO comprising trained social work professionals to work with poorest and voiceless ethnic communities of northeast regions of India. The Youth Development Fund (YDF) trained the Young Volunteers in Action (Y-VIAs) on child rights and child protection. They will be conducting outreach programs and creating awareness on child rights and protection issues. They also help communities where children are born out of wedlock.

41. The YDF identified child protection under difficult circumstances and children in conflict with law as one of its core programs. The program aims to prevent and respond to violence, exploitation and abuse against children. The program does this through provision of services provided in terms of fostering, rehabilitation and reintegration into society along with prevention services to protect children at risk of violence, abuse and exploitation.



42. Nazhoen Pelri Skills and Training Centre (NPSTC) under YDF, established in 2005, create employment opportunities for vulnerable girls. The program promotes short-term skills development and training in vocational trades through which graduates have found employment. Some of them are employed by organisations like the Department of Adult and Higher Education (DAHE), Ministry of Education (MoE) as Non-Formal Education (NFE) instructors, NGOs and tailoring units, while a few have started their own businesses. YDF also provides scholarships (basic and higher education) to children from economically backward families. YDF also has a Drug Rehabilitation Centre in Serbithang, two separate ones for boys and girls, established to counsel youth with alcohol and drug addiction.

43. The government is committed to combating and addressing sexual exploitation in all its forms and to protecting its victims. As indicated earlier in the report, both National Assembly and National Council ratified the Optional Protocols without any amendment and made appropriate amendments to the PCB. Also, other child protection legislations and rules and regulations were drafted thereafter.

44. The government has taken a multi-pronged approach to protection of children from offences outlined in the Optional Protocol. The numerous laws, programs and policies that directly combat sexual exploitation and trafficking are monitored as implementing agencies carry out their regular functions.

45. NCWC, in partnership with RBP, DoI, MoLHR and other law enforcement agencies, develops strategies and other tools to address sexual exploitation, including those in print and digital forms.

46. NCWC is also working on ways to establish a proper system and procedure, including streamlining of roles and responsibilities for various agencies working towards protection of women and children. Rather than services being dependent on issues or individuals, it is working towards instituting effective childcare and protection services and pushing towards 'all children having access to systematic, appropriate and efficient protective services.'

47. In June 2014, Ministry of Health (MoH) and RENEW conceived the partnership meeting, "Reaching Out Together". The partnership agreed on a common collaborative work plan to build better and comprehensive consciousness on reproductive health issues, substance abuse and domestic and gender-based violence, including sexual exploitation. The understanding would also encourage a viable sustainability of both Multi-Sectorial Task Force (MSTF) and CBSS, the country's two grassroots social networks.

48. The RBP also initiated the Police and Out-of-School Youth Partnership Program (POSYPP) and Police-Youth Partnership Program (PYPP). The programs intend to foster partnership between police and citizen and to build positive and productive partnership with out-of-school and unemployed youth. The programs also familiarise and sensitise youth on various themes including Youth and the Law, CRC and crime prevention. The program has reached its fourth phase. PYPP and POSYPP is a bi-annual program the RBP carries out with support from Save the Children and UNICEF. It is targeted to reducing youth crimes and delinquencies. The program that began in 2008 has today reached its 10th phase and has 5,125 school youth members.

49. The DoI monitors immigration checkpoints to check on illegal immigration and in the process also keeps check on possible cases of trafficking in persons and child labour.

50. Foreigners bringing their own children to Bhutan are required to produce marriage certificate and birth certificate of a child as a proof, without which visas are not approved. Under Article 131 of the Immigration Act, 2007 (IA) it is an offence of fourth degree felony to bring into the kingdom foreigners through entries other than designated ports. The penalty applies to a person who ignores the entry of a foreigner into the country, or has allowed him or her to remain inside the country in violation of the law. It extends to a

person bringing in foreigners who have not received official authorisation to enter or reside inside the country.

51. A One Stop Crisis Centre (OSCC) that MoH established at the national referral hospital provides all medical services related to violence, abuse and other forensic cases. Such a service, although based only in Thimphu, has sensitised and trained focal persons in all hospitals across the country. While most cases of violence are managed at district levels, there is communication and a few referrals to the OSCC. By the end of 11th Plan, similar centres are to be established in Mongar in the east and Gelephu in central Bhutan.

52. Regional employment and labour offices under MoLHR addresses child labour issues in districts and communities outside the capital. The focal person at the ministry conducts training of labour inspectors on child protection issues, particularly child labour and trafficking.

53. The CMA also has a child protection office with full-time staff and also formed an expert committee on policy and programming advice/guidance. The committee coordinates with the members and development partners and also takes on the monitoring role. Members of the committee visit monastic institutions within their regions and prepare reports for future reference.

54. The media has played an important role in terms of awareness creation and sensitisation, reporting on cases related to the violation of the rights of women and child. Rape of minors, child labour and child molestations were often reported in the country's newspapers which also highlighted the consequences and charges against such cases to educate the society and create awareness against such crimes.

55. The NCWC produced a few jingles with the country's first private radio station, Kuzoo on promotion of child rights in 2008.

56. The NCWC also conducted awareness programs on legislations with the Chief Justice taking the lead through the 'Know the laws to protect your rights' campaign. It conducted the 12<sup>th</sup> South Asia Association for Regional Cooperation (SAARC) Law annual conference and the 9<sup>th</sup> Chief Justices' Conference in 2013 in Thimphu that discussed integration of existing child protection laws, child labour, trafficking and sexual abuse and exploitation among others. The commission conducted several workshops in 2013 on protection of rights of women and children in Bhutan, ending child labour and violence against children, on trafficking and child rights.

57. Focal agencies have worked on awareness of child protection issues riding on international events like the World Day against Child Labour. RENEW, with financial support from NCWC and the UN, produced a fictional movie 'The Other Side of the Moon' that touches on a number of sensitive protection issues, including night hunting, civil registration and adoption. Similarly, the YDF media club developed a short film to raise awareness on issues of child marriage. YDF trained relevant CSOs and its staff on child rights and protection issues. It conducted child forums that advice and inform on children living with disabilities and issues of child rights, responsibilities and protection.

58. RENEW launched a campaign 'One Billion Rising' in Bhutan in 2013. One Billion Rising is a global campaign by women for women. The movement calls for an end to violence against women and girls and seeks justice and gender equality. RENEW volunteers carried out a series of awareness programs involving both youth and adult to garner support for the movement and to pledge to end violence against women and girls. Exactly a year later, in February 2014, it launched a book titled "One Billion Rising against violence on women". The book is a compilation of pledges, commitments and opinions that individuals and groups have shared within the one-year. Boosting the effort towards prevention of violence against women and children, influential figures that include Royal Family members, Parliament members and senior officials have assured their support through the book.

59. MoH and MoE, in partnership with department of disaster management have been sensitising schoolteachers, children and public on child right issues during emergencies. Department of Youth and Sports coordinated the drafting and finalisation of Child Protection in Emergencies Manual for youth volunteers with relevant stakeholders in July 2014, for the *Muensel* program.

60. Among youth, in February 2011, RENEW volunteers, with funds from IPPF<sup>1</sup> established a youth network of various groups collaborating to work toward a common cause of creating awareness among the public on sexual and gender-based issues. The youth network was called DAISAN. The network works toward making children's voices heard as partners in policy development rather than remaining a mere target group or service recipients.

61. The CMA runs sensitisation and awareness programs for heads of *lobdras* (Buddhist schools), *shedra* (Buddhist institutes) and *LamNetens* (chief abbot of a district monastic body) and monks. NCWC initiated a translation of CRC and the two Optional Protocols. The translated versions were used to create awareness on Child rights and the Optional Protocols to all head teachers of *lobdras*, including those of private *shedras* and nunneries.

62. BNLI began the first law club in Punakha Higher Secondary School on 21<sup>st</sup> September 2012. Since then, it has been able to initiate 24 such clubs in various schools across the country. Through the club students are expected to know some of the pertinent and relevant laws of the country, including child rights.

## Part V. Prohibition and Related Matters

63. In addition to the criminal prohibitions noted under General Measures of Implementation, the PCB provides for both confiscation and recovery of any property constituting the criminal proceeds, any weapon or article used or any benefits derived from such offence. The PCB also provides for the courts to order confiscation of any property or assets acquired by the defendant through commission of a crime or through dishonest or fraudulent means such as intimidation, extortion, cheating or corruption.

64. As per the Extradition Act, persons alleged of offences relating to miscarriage and abandonment of child and immoral traffic in women and girls are construed extradition offence and shall be dealt in accordance with law in force in Bhutan.

65. Section 209 of the CCPC stipulates forfeiture of property/a judicial sale of property/a financial penalty/cancellation of license and additional criminal penalties. It also empowers the police to seize any property, which may be found under circumstances, which creates suspicion of commission of an offence.

66. Section 11 of the IA empowers immigration officers to enter any private or official premises for search, arrest, seizure, detention, interrogation or forfeiture of any vehicles, trains, vessels, aircrafts, or goods in accordance with the laws of the kingdom. It also empowers them to board and inspect any means of transportation bringing a foreigner into the kingdom, examine any person carried by that means of transportation and any record or document pertaining to that person, seize and remove the record or document or obtain copies or extracts.

67. The CAA summarised in Table 3 below, states that adoption order in relation to a child may be issued only on submission of proof, that of consent of a child's parent or guardian. Section 66 of the CAA offences receipt of payment in relation to adoption or

<sup>1</sup> International Planned Parenthood Federation.

proposed adoption of a child. It also offences activities like unauthorised advertising, false statement, forgery, undue influence and improper witness of consent.

68. On person seeking permission to enter the kingdom as a visitor, the IA provides for admission for period not exceeding 90 days and subjects to a condition prohibiting employment. It also restricts entry of a foreigner into the country on ground of organised criminality for engaging, in the context of trans-national crime, in activities such as human or drug trafficking, or money laundering.

Table 3  
**Child Adoption and Trafficking offences**

<i>Child Adoption Act 2012</i>		
Sections	Offences	
Penalty		
62	Receipt of payment	Offence of bribery
63	Unauthorised advertising	Misdemeanour
64	False statement	Misdemeanour
65	Impersonation	Misdemeanour
66	Forgery	Fourth degree felony
67	Undue influence	Misdemeanour
68	Improper witness of consent	Misdemeanour
<i>Child Care and Protection Act 2011</i>		
213	Cruelty to a child	Petty misdemeanor
214	Harsh or degrading correction or punishment	Violation
215	Child battery	Petty misdemeanor or misdemeanor
216	Employment of a child for begging	Misdemeanour
217	Serving alcoholic beverages to a child	Petty misdemeanor
218	Providing narcotic drug psychotropic or chemical substances	Third degree felony
219	Invasion of a child's policy	Petty misdemeanor and reasonable compensation as determined by the court to the concerned child
220	Engagement of child for commission of crime	One degree higher than the punishment for the offence committed
221	Sale of a child	Third degree felony
222	Child prostitution	Third degree felony
223	Child pornography	Third degree felony
224	Child trafficking	Third degree felony
<i>Immigration Act 2007</i>		
125. b	Knowing reporting false information with intent to deceive the authority	Petty misdemeanor
127	a) Hires or recruits foreigner for employment knowingly that such person is unauthorised to be in the country; b) Hires or recruits for employment a foreigner without complying with the requirements under this Act;	Forth degree felony

*Child Adoption Act 2012*

- (c) Knowingly aids, abets, assists any foreigner to exit or enter the kingdom with invalid travel documents;
- (d) Knowingly aids, abets, assists any foreigner by furnishing false documents or other means to facilitate unlawful exit or entry into the kingdom; or
- (e) Harbours an inadmissible foreigner.

Labour and Employment Act 2007

9	Prohibition of the worst forms of child labour	Third degree felony
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## Part VI. Protection of the rights of Victims

69. While drawing up the CCPA, the best interest of the child was given primary focus. Section 3 of CCPA, in highlighting its principles, calls for government, non-government, courts of law, administrative authorities, family members and individuals to give primary consideration to the interest of a child.

70. During adjudication, the CCPA required a child to be accompanied by a parent, member of family, guardian or legal representative unless it was considered not to be in the best interest of the child, in particular, taking into accounts the age or situation of the child. The child was also allowed to request for an independent observer to be included during the proceedings.

71. Section 38 of the CCPA calls for establishment of Child Justice Court. The BNLI is in the process of carrying out consultations with relevant experts to set up the court.

72. For all adjudication of cases relating to a child, it is required of the judge to inform the child on (a) the nature of allegations; (b) the rights; and (c) procedures to be followed in accordance with CCPA and CCPC. Also, all adjudication was required to be carried out in-camera.

73. Section 18 of the CCPA requires determination of a child's age at the time of the commission of the crime. Also, all institutions or organisations, whether government or private, shall protect the dignity of the child observing the principle of decriminalisation, diversion and restorative justice.

74. On protecting child's privacy, legal proceedings, including investigation by any agency are required to respect a child's right to privacy. Also, a child cannot be separated from parents against will, except when competent authorities, subject to legal review, determine so. But that has to be in accordance with the applicable laws and procedures, which proves that such separation is necessary for the best interest of the child.

75. To protect privacy of child victims, NCWC, in coordination with MoE, transfers them to a school that is most convenient for the child to attend based on discussions with the child and the child's parents.

76. Authorities are required to restrain or use force only if a child poses an imminent threat of injury to oneself or others and only when all other means of control have exhausted. Use of restraint or force as a means of punishment is unacceptable.

77. Section 67 of the CCPA mandates the police to ensure care and safety of children in difficult circumstances until they are transferred to a Child Welfare Officer. The Child Welfare Officer, in turn, may send the child to a place of safety until he or she ceases to require assistance and protection or until the child attains the age of 18 years or recommend for adoption.

78. NCWC coordinated and trained judges, BNLI officials and others from relevant sectors in both government and NGOs. Some of the activities carried out by BNLI between 2011 and 2014 are: consultations on child justice system, trained police and legal officials on children and women friendly procedure, carried out needs assessment survey on child justice system, training of trainers on child Justice and conducted national child justice conference.

79. DoI conduct trainings of its officials that include regional directors, officers and inspectors on child rights, childcare and protection. For the training of immigration officials, resource persons from the Department of Labour, UNICEF, YDF and NCWC are availed.

80. RENEW, on its part, conducts trainings for its workers, who support victims of sexual exploitation, trafficking and other domestic and gender-based violence.

81. RBP conducts trainings on CRC, Optional Protocols and other Child related issues for its professionals. The RBP has trained police personnel and recruits on child protection providing them a basic understanding of child friendly procedures and on dealing with child victims.

82. Through RENEW, family counselling is available for those at risk. They also provide confidential counselling services to victims of family violence to rebuild their lives.

83. Other services the RENEW provides are residential facilities. This is a safe house, which operates 24 hours. The shelter serves as emergency protection for victims of family violence and their children from abusers. They are provided with services and support to heal physical and emotional wounds to begin their lives anew, free of violence and abuse.

84. The RBP established WCPUs and WCPD in Thimphu and other towns. The WCPUs occasionally brief children on court processes and what is expected of the child including their rights. Proper counselling and medical treatments are ensured for traumatised children that police intercept and save from being trafficked. The child is handed over to its parents, or kept in RENEW shelter for counselling should no one claim the child.

85. The OSCC and the MoH have a number of health workers who respond to children in difficult circumstances, especially those abused or exploited. They carry out sensitisation programs for focal persons who have been appointed in various district hospitals.

## **Part VII. International Assistance and Cooperation**

86. In 1980, Bhutan ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and became signatory to the Convention on the Rights of Persons with Disabilities (CPRD) in 2010.

87. As a member of SAARC, Bhutan became a state party to the SAARC Conventions on Preventing and Combating Trafficking in Women and Children and Regional Arrangements for the Promotion of Child Welfare in South Asia. The conventions were ratified in January 2002. The purpose of these conventions is to promote cooperation among member states to effectively deal with prevention, interdiction and suppression of trafficking in women and children. They also promote repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks. Coming into force in 2005, the member states, including Bhutan constituted a Regional Task Force to monitor and assess the implementation of various provisions of the conventions. More legislation followed in fulfilment of the requirements of the Protocols.

88. Bhutan is a member of the South Asia Initiative to End Violence Against Children (SAIEVAC), previously known as South Asia Forum (SAF). The forum is the apex body of SAARC, providing opportunities for regional collaboration and support to protect children from violence.

89. Required by SAIEVAC National Mechanism, Bhutan formed a National Action and Coordinating Group (NACG) to End Violence Against Children and Women on 2<sup>nd</sup> April 2013. The group comprises representatives from CSOs and Development Partners working to protect the rights of women and children in Bhutan. The Group elected RENEW and UNICEF as Chair and Co-Chair.

90. Based on the recommendation of the 17th SAARC Summit held in the Maldives, an Inter-governmental Expert Group Meeting on the Establishment of a Regional Mechanism for Empowerment of Women and Gender Equality was held in March 2013. The Expert Group proposed the constitution of a Gender Policy Advocacy Group (SAARC-GPAG) to advocate keeping gender high on the policy agenda of the SAARC countries and to identify common issues and provide policy advice.

91. Bhutan is also a signatory to the Beijing Platform for Action and also to the Beijing Declaration on South-South Cooperation for Child Rights in South Asia in 2010.

Table 4

**International Conventions ratified and signed**

<i>Convention</i>	<i>Country status</i>	<i>Date</i>
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979)	Ratified	31-Aug-80
Beijing Platform for Action	Signed	1995
Convention on the Rights of the Child (CRC, 1989)	Ratified	23-May-90
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution	Ratified	4-Sep-03
SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia	Ratified	24-Jun-05
Member of INTERPOL	Member	2005
Optional CRC Protocol on Sale of Children, Child Prostitution and Child Pornography	Ratified	26-Oct-09
Optional CRC Protocol on Involvement of Children in Armed Conflict	Ratified	26-Oct-09
Convention on the Rights of Persons with Disabilities (2007)	Signed	21-Sep-10
Beijing declaration on South-South Cooperation for Child Rights	Signed	6-Nov-10

92. Bhutan actively participates in the international and regional meetings relating to Child Rights. In April 2013, Bhutan hosted the 5th Meeting of the Regional Task Force to implement the SAARC Convention relating to Trafficking in Women and Children and promotion of Child Welfare in South Asia. Save for Afghanistan, Maldives and Pakistan, all SAARC member-states attended the meeting. The members were re-stated of Bhutan's commitments to prevent and combat trafficking in women and children and to promote the wellbeing of children in South Asia.

93. Bhutan, represented by RBP, joined the INTERPOL in 2005. For the last few years, they have been regularly attending the INTERPOL general assemblies. The last they attended was the General Assembly session held in Cartanega, Columbia in October 2013.

94. Also in 2013, Bhutan hosted a three-day international conference, on protection of cultural property in Asia, organised jointly with INTERPOL General Secretariat. The conference discussed on national laws and international legal instruments, as well as law enforcement activities against theft, looting and illicit trafficking amongst other issues.

95. As a responsible member of the international community, Bhutan is open to active engagement with the different UN human rights mechanisms. Most recently, it successfully conducted its Second Universal Periodic Review in April 2014 and also hosted the visit of the UN Special Rapporteur on Right to Education in May 2014. Bhutan is committed to discharging its responsibilities as per its obligations emanating from international conventions, including the Optional Protocol to CRC.



## Annexure

### Annexure 1: List of people interviewed

1. Dasho Pelzang Wangchuk, Member of Parliament, National Assembly, Chairperson of the Human Rights Committee
2. Norbu Wangchuk, Sr. Immigration Officer, Department of Immigration
3. Sangay Dorji, Sr. Immigration Officer, Department of Immigration
4. Tshering Dolkar, Director, Counselling, RENEW
5. KinleyLham, Sr. Program Officer, Bhutan Youth Development Fund
6. Lt. Col.NamgayDorji, Superintendent of Police, Women and Child Protection Division, Royal Bhutan Police
7. Kinley Dorji, Department of Labour
8. Lopen Sherab, Child Protection Officer, Child Care and Protection Office, Commission for Monastic Affairs
9. Chhoek Penjor, Dy. Chief Program Officer, National Commission for Women and Children
10. Deki Dema, Program Officer, National Commission for Women and Children
11. Dr Jangchub Norbu, Sarpang Drangpon, Royal Court of Justice
12. Dr. Rinchen Chopel, Director General, SAIEVAC
13. UgyenWangdi, Member of Parliament, National Assembly
14. Tandin Dorji, Desk Officer, Ministry of Foreign Affairs
15. Tashi Tshering, Sr. Planning Officer, Ministry of Finance
16. Chencho, Planning Officer, Gross National Happiness Commission
17. Sangay Choedup, Lawyer, Bhutan National Legal Institute

## Annexure 2: Agenda of a sensitisation program (Immigration Department)

## Trainings and workshops

Activity name	Child Rights Training/Workshop
Start & end date	12-14 <sup>th</sup> March 2014 (tentative)
# of participants and participating organization/agency	15 Immigration Officials (will include Regional Directors, Immigration Officers and Inspectors)
Resource persons	<ol style="list-style-type: none"> <li>1. Kinzang Wangdi, Immigration Office Paro International Airport.</li> <li>2. Kinley Dorji, Department of Labor, Head Office, Thimphu.</li> <li>3. 1 expert from UNICEF, Bhutan Office, Thimphu (Children's Division)</li> <li>4. 1 Official from NCWC, Thimphu</li> <li>5. 1 from DoYS/YDF</li> </ol> <p><i>Note: The selected few from the list of officials who attended ToT on Child Rights are earmarked.</i></p>
Content/topics covered	<ul style="list-style-type: none"> <li>• Historical evolution of Child Rights</li> <li>• Universal declaration of Human Rights</li> <li>• General principles of CRC</li> <li>• Contents of CRC</li> <li>• Child Rights in Bhutan</li> <li>• Child related case handling</li> <li>• Optional protocols of CRC</li> <li>• Reporting Obligations following ratification</li> <li>• etc</li> </ul>

### Annexure 3: Reference list

1. Bhutan Citizen Act 1985
2. Child Adoption Act of Bhutan 2012
3. Child Care and Protection Act of Bhutan 2011
4. Civil and Criminal Procedure 2001
5. Commercial Sale of Goods Act 2001
6. Guide to the Optional Protocol on the Involvement of Children in Armed Conflict
7. Guidelines on reporting Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography
8. Immigration Act 2007
9. Introduction to the Convention on the Rights of the Child – Definitions of key terms – document
10. Labour and Employment Act 2007
11. Narcotic Drugs, Psychotropic Substances and Substance Abuse Act 2005
12. National Commission for Women and Children, Mapping and Assessment Report and National Plan of Action for Child Protection
13. National Commission for Women and Children: Literature on Violence Against Children in Bhutan
14. National Commission for Women and Children, Study report on Gender Stereotypes and Women's Political Participation
15. National Report Submitted by Bhutan to UN Human Rights Council
16. The United Nations Convention on the Rights of the Child – document
17. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children Child Prostitution and Child Pornography –document
18. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict – document
19. Penal Code of the Kingdom of Bhutan 2004
20. Prison Act 1982
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22. Respect Education Nurture and Empower Women, Violence Against Women, 2007
23. Royal Bhutan Police Act 2009
24. SAARC Human Resource Development Center, Training Report – Combating Child Trafficking: Unravelling the Push and Pull Factors in the SAARC Region, July 2011
25. The Constitution of the Kingdom of Bhutan 2008
26. US Department of Labour's Bureau of International labour Affairs, 2012 Findings on the worst forms of labour
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  40. <http://www.womenchangemakers.net/resources/laws/350-saarc-convention-on-preventing-and-combating-trafficking-in-women-and-children-for-prostitution>
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  43. <http://www.interpol.int/News-and-media/News/2013/PR016>
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