



**Report**

# **Child Rights Conference**

***Kathamandu, Nepal***

**23.03 To 28.03.2010**

**In cooperation with Creating Possibilities Nepal**

## 1. Antecedents

IDE began cooperation with Creating Possibilities in 2008, and held a first seminar in Kathmandu at the end of March 2009 on the theme :

”INTRODUCTION TO CHILDREN’S RIGHTS: FROM THEORY TO PRACTICE”

The general objective of the seminar was: *to influence relevant stakeholders on the importance of the implementation of Children’s rights in Nepal.*

Since Nepal was in the phase of drafting a new Constitution, the specific objective of the seminar was to advocate for the integration of children’s rights in the Nepalese Constitution and to gain understanding on the Child Rights provisions that should be put in the new constitution. For this purpose, participants were selected from groups such as Parliamentarians, Journalists, NGOs and even children.

## 2. Status of the New Constitution

The situation of Nepal regarding the Process of drafting is the following:

### a) Summary of the Proposals

- November 2006: *Comprehensive Peace Accord (CPA)*
- 2007: *Interim Constitution*: with an article 22, dedicated to child rights, but an art. 36 which doesn’t ensure the enforceability of the rights
- 2009: *Expert Submission on Child Rights in the New Constitution for Nepal*
  - Consortium of 56 NGOs active in children’s rights + National coalition for Children as Zones of Peace = 72 organisations in total
- 2010, January : *Concept Note (or first unofficial draft of the New Constitution)*
  - comprehensive child right's provisions in the Constitution, with a new art. 24 dedicated to children’s rights
  - but justiciability of children’s rights not clear
- End of March 2010: 1st draft
- May 28th 2010: signature of the new Constitution (proposed)

### b) Current situation

Article 22 of the Interim Constitution provides :

1. Every child shall have the right to his/her own identity and name.
2. Every child shall have the right to be nurtured, to basic health and to social security.

3. Every child shall have the right to protection against physical, mental or any other forms of exploitation. Any such act of exploitation shall be punishable by law, and the child so treated shall be compensated in a manner as determined by law.
4. Helpless, orphan, mentally retarded, conflict victims, displaced, vulnerable and street children shall have the right to special privileges from the State to secure their future.
5. No minor shall be employed in factories, mines or in any other such hazardous work, or shall be used in the army, police or in conflicts.

**c) Proposed art 24**

In the preliminary draft (unofficial version), the Group of the Fundamental Rights Committee proposed to devote an art. 24, in the section “Fundamental Rights” with eleven Rights regarding Children, and deletion of art. 36. These rights are :

1. Right to a name, identity, birth registration
2. Right to education, health, alimentation, care, sports and personal development from family and state
3. Right to early childhood care/development
4. Right to be educated in mother tongue
5. Right not to be exploited at work
6. Right not to be forced to marriage, illegal abduction, trafficking and hostage
7. Right not to be recruited and used in army, police, armed conflicts and right not to be mistreated in the media, or by traditional or religious practices, or exploited physically, mentally and sexually
8. Right not to be tortured at home, school and other place
9. Right to a child friendly justice
10. Right to special protection for orphans, disabled, victims of conflicts, displaced and at risk
11. Criminalization of the offences of exploitation and Right of the victims : investigation + compensation

Other provisions related to education, health, dignity, prohibition of torture and death penalty, right to a name and an identity... are included.

**3. A project work done by the MCR Students in SION**

As part of the Study Programme of the Master of Advanced Studies in Children’s Rights (MCR) 2009-2010, IDE asked a group of six MCR students to support the project in Nepal, which advocates for the introduction of children’s rights in the new Nepalese constitution.

The six MCR students were given the task to:

- search in the Constitutions of a large variety of States for children's rights articles,
- identify why and how these articles had been introduced in the constitutions, and
- analyze and compare the different ways of considering children's rights at the constitutional level.

The work done by the students is excellent:

- **49 Constitutions** have been analysed: Africa, Asia & Pacific, CEE/CIS, Western Europe and North America, Latin America & Caribbean,
- **The identification** of relevant provisions by themes / and with the criterion of Nepal important issues contained in the second report to the CRC Committee has been done,
- **From a Comparison** between the constitutional provisions and the CRC provisions (wording and spirit),
- **With a view to identify** provisions reflecting the CRC and the **impacts on** : legislative reforms, policy reforms, jurisprudence

This comparative study sorts out some general considerations: most of the time, constitutional reforms alone cannot achieve the full recognition of children's rights into the domestic legislative order. In most of the countries reviewed in the study, these reforms came together with additional legislative measures. In fact, a constitutional reform remains a first step requiring further implementation through legislative reforms, in order to adopt new laws or to revise the existing ones to bring them in compliance with the constitutional norms and with the CRC.

States have adopted **different approaches** to comply with their obligations to implement children's rights in their countries. Some have promulgated new constitutions or amended the existing ones in order to incorporate provisions of the CRC, while others have translated the CRC into domestic law. But "no **single approach** can be envisaged as a blueprint best suited to all countries".

The students provide with tables and figures, showing how the different countries have dealt with children's issues, and what could be good solutions for Nepal. They also present good practices.

This document is very valuable and will benefit to Nepal, the Constituent Assembly, the Children's Rights activists and the children themselves. It was very useful for the mission done in March.

#### **4. Programme**

The Mission lasted from March 23 to March 28 and was led by Mr Jean Zermatten, Director, accompanied by Mrs Yanghee Lee, Professor at Sungkyunkwan University and Chairperson of the UN CRC Committee ; unfortunately, Mrs Paola Riva Gapany, Deputy Director of IDE could not attend due to health reasons. The programme was developed by Creating Possibilities and was the following:

##### a) Meetings around the Constitution

The period of the visit coincided with a very crucial moment of the history of Nepal, since the new Constitution was in the phase of delicate negotiations between the three main political parties of Nepal : The Maoists, The Nepali Congress and The Communist party. All the discussions are based on the Concept note of a draft issued on January 2010 (see above).

#### **23.03.2010**

- Meeting with the Chairperson of the Constituent Assembly/ Parliament Mr. Subash Nemwang
- Meeting with the Chair of Constitutional Committee, Mr. Nilambar Acharya
- Meeting with the Minister for the Ministry of Women, Children and Social Welfare Mr Sarba Dev Ojha.

#### **24.03.2010**

- Dialogue with the Chair of Fundamental Rights Committee Ms. Brinda Pandey and about 10 members, of this discussion, Presentation by Mrs Lee “Twenty years of the Convention on the Rights of the Child. Achievements and Challenges”

#### **26.03.2010**

- Meeting with Mr. Pushpa Kamal Dahal Alain Prachanda, Chairman of the United Nepal Communist Party of Nepal (Maoist) and leader of the opposition
- Meeting with the Rt. Hon'ble the Prime Minister Mr. Madhav Kumar Nepal

#### **28.03.2010**

- Breakfast meeting with the rt. Hon'ble President of Nepal, Dr. Ram Baran Yadav
- Meeting with Mr Jhalnath Khanal, Chairman of the Nepal Communist Party, United Marxist and Leninist

## b) Conferences and Lectures

During the same period, Mr Zermatten and Mrs Lee gave several conferences or lectures

### **23.03.2010**

- Interaction with JJ Committee- Led by the Senior Justice of Supreme Court of Mr. Khilaraj Regmi who is also the chair of JJ Committee : Mr Zermatten gave a lecture :“Trends in Juvenile Justice” and discussion and dinner with 35 people from the Justice field.

### **25.03.2010**

- 21 Years of Child Rights Movement, Interaction with NGOs and INGOs at World Vision Nepal, about 25 people from the different NGOs, Presentation done by M. Zermatten “A new child friendly constitution for NEPAL : inputs from MCR Students” on the project work done by the MCR students

### **27.03.2010**

- Discussion with Journalists + Press Meeting (16 people) ; presentation done by Mr. Jean Zermatten : The CRC : glass half full / half empty ; interaction and numerous questions

## c) Visits

Mr Zermatten and Mrs Lee took the opportunity to visit and interact with different groups, different GOs or IOGs and NGOs, including

### **24.03.2010**

- Interaction with Children Clubs in Kavre (125 boys and girls)  
- Visit of the SOS Village in Kavre

### **25.03.2010**

- Visit of a Day Care Center for disabled girls in Kathmandu (20 adolescents girls)

### **26.03.2010**

- Visit to Orchid Garden Nepal Day Care Center for early childhood (30 children from 6 months to 4 years)  
- Visit of a correctional Center for young offenders (the unique one in Nepal), interaction with adolescents (60 boys, 3 girls)

### **27.10.2010**

- Visit to Community Based Rehabilitation Center for disabled (children and adults in Bhaktapur

#### d) Discussion on training

IDE has the project to conduct training in Nepal. Mr Zermatten (jointly with Mrs Lee and Creating Possibilities), met Prof. Nikku, who is in touch with the High School for social work in Lausanne. They had also discussion with CP in order to build a project. Interests also after informal consultation, Save the Children (Jérôme Collineau and Aschih) and UNICEF (national, BV).

### **26.03.2010**

- Meeting with Prof. Bala Raju Nikki and his organization (private College) dedicated to social workers. Interaction with the Director, prof. Nikku, 3 teachers and about 10 students

#### e) Press

The mission has been covered by different media

### **23.03.2010**

- Interview Mr Zermatten and Mrs Lee, National TV, Official News

### **25.03.2010**

- M. Zermatten and Mrs Lee : long interview with Republica, an English Daily  
- different papers, in different media on the visit in Kavre

### **27.03.2010**

- Article in "Republica" on the visit in Kavre  
- Picture Mr Zermatten + Mrs Lee at the Prime Minister's Office (no text...)

### **29.03.2010**

- Article in Republica

#### f) Informal

### **22.03.2010**

- M. Govinda Adhikari, (Creating Possibilities) and preminent Members of the NGO welcomed the two experts

### **24.03.2010**

- Meeting with UNICEF National Office : Mrs Beth Verhey and her team

**25.03.2010**

- Visit and lunch at Save the Children, Nepal

**26.10.2010**

- Meeting with OHCHR, M. Richard Bennett, Representative of the HC

- Dinner at Deepak's place

- Dinner with UNICEF (national " regional) and OHCHR

## **5. Follow up**

According to the discussions held with Creating Possibilities and IDE, there is an important interest in Nepal (and in the region) for a training of professionals in the field of children's rights. IDE has interest to mid, long-term activities in Nepal. The momentum of the new Constitution is perfect.

The general opinion can be summarized as such:

- The professionals have not enough knowledge on the CRC, the OPS, and the rights-based approach ; protection remains the main concern,
- The interest is large, not only in Nepal, but in the region (India, Bangladesh, Afghanistan, Pakistan, Sri-Lanka ?),
- Organizing a Master degree seems to high level for the moment ; a Diploma (about 30 Credits ECTS, according to the Bologna System) sounds better and more adapted to the reality
- CP has interest to be the local partner
- Having a university on board could be an advantage
- Prof. Nikku could be helpful, but not his school (focused entirely on Social work)
- The question of the fees has to be examined
- Save and UNICEF are ready to discuss ; maybe they are interested to train their staff people
- Logistical issues have to be developed
- How much will the students be able to pay (scholarships ?)

## **6. Conclusion**

The very amazing networking done by CPR was impressive and the seminar's success is due principally to this factor. All the NGOs have been contacted, including the international ones and UN Agency like UNICEF. The fact that the CZOP and Consortium has been associated in the organization of the event is an important added value.

IDE is interested in developing long term cooperation with Creating Possibilities, seen like “an agent” of IDE in the region.

Creating Possibilities has to explore the possibility to build a project of having a training for professionals in the region, in or with a University, in the sense of a Diploma in Children Rights and Protection.

IDE and CP will determine together, the timetable for the future activities.

Sion, 30 March 2010

jz