

**INVESTIGATION OF
COMMERCIAL SEXUAL
EXPLOITATION OF CHILDREN
AND
CHILD SEXUAL ABUSE
IN CAMBODIA**

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INTRODUCTION

This draft manual was prepared as a working documents for the training on investigation of commercial sexual exploitation of children (CSEC) and child sexual abuse in Cambodia, which is intended to be given to the members of COSECAM, a coalition of NGOs working on CSEC and child sexual abuse issues. The contents of this manual are subject to modification and additional input based on the outputs of the actual training.

This training specializing on investigation of CSEC and child sexual abuse is the first training to be organized in Cambodia, and as such, the trainers faced a number of limitations. One of these limitations is the availability of recent researches and studies on Cambodian child psychological development and the impact brought about by the brutal history and the emerging of so many issues like the unabated flourishing of sex industry and diminishing Cambodian morality. Further, developing techniques for investigation, especially dealing with children victims of CSEC and child sexual abuse, to a large extent varies according to the socio-cultural factors in each country.

The techniques and skills presented in this manual for this training, are largely based on the experiences of the human rights organizations in investigating human rights cases. Researches from materials produced in other countries were also incorporated in this manual.

CHRTF recognized that developing the techniques for investigation, especially interviewing victims of CSEC and child sexual abuse cases require various clinical and practical studies to ascertain the psychological development process of a Cambodian child and determine the effective approach in dealing with child victims. It is in this reason that this manual does not offer completely practical techniques and exact guidelines for investigation, especially interviewing of child victims/witnesses. As a process of developing these investigation / interview approaches and techniques, the training to which this manual will be used is a great step towards this end.

This draft manual has two main parts. The first part is the presentation of contents for the training, and the second part is the instructional guidelines for trainers who will facilitate the training.

The first part of this draft manual contained four main subjects presented in five modules. These are:

- o rights of the child, module 1;
- o definitions of terms and forms of CSEC and child sexual abuse, module 2
- o investigation, documentation, interviewing, modules 3 and 4; and
- o coordination on investigation, recovery/rescue, and providing assistance to victims, module 5.

It is hoped that the training will become a productive venue for sharing experiences and ideas among the NGOs and further contribute in developing this manual into a practical guidelines for NGO investigators, law enforcement as well, in dealing with CSEC and child sexual abuse cases.

General Objective

To upgrade and enhance the skills, understanding and attitudes of NGO staff in investigating cases and issues on commercial sexual exploitation of children (CSEC) and child sexual abuse.

Specific Objectives

1. Deepen the understanding of NGO investigators on the definition of the child, general principles and the different rights of the child recognized by the Convention on the Rights of the Child.
2. Clarify the different forms of CSEC and child sexual abuse in Cambodia by defining these forms of exploitation and abuse.
3. Widen understanding on investigation work and be able to define its role in the investigation of CSEC and child abuse cases.
4. Upgrade and improve the skills of NGO investigators in conducting investigation, documentation and gathering of evidences on cases and issues specially related to children victims;
5. Strengthen and consolidate action plans for coordination and cooperation in rescuing and providing immediate and legal assistance to children victims and their families.

Module I -- The Rights of the Child

DEFINITION OF THE CHILD

According to Article 1 of the Convention on the Rights Child (CRC), a child means *every human being below the age of eighteen years*. However, the article does not provide a general definition of the child, but designate only an age limit of population group which the rights recognized in the Convention provide favour; and does not also address the question of when does childhood begins, it is up to the national legislation to specify when childhood or life begins.

The article stresses that the child needs special protection, as well as care, assistance, direction and guidance considering that the child at such age is still forming his or her personality and his or her capacities are still evolving

Minimum age can be set up for certain purposes. For example:

- Minimum age for admission to employment (Article 32);
- Minimum age below which children are presumed no to have the capacity to infringe the penal law (Article 40, para. 3(a));
- End of compulsory education (Article 28);
- To access to medical and legal counselling without parental consent (Article 24, para. 2(e) and Articles 37(d) and 40);
- To deprivation of liberty (Article 37(b));
- To give testimony to the court.

The minimum age limits should not be set at an unreasonably low level on the basis of arbitrary criteria. The basis should reflect the general principles set out in the Convention.

The definition of the child in the national legislation has also to reflect these fundamental principles of the Convention, thus reflecting the need for the child to be prepared to live an individual and responsible life in the society. Adulthood and maturity can only be attained through a process where a child experience decision making benefiting from an equally evolving direction and guidance of parents, legal guardians or others responsible for the child, who are required to perform their tasks according to the evolving capacities of the child.

3. GENERAL PRINCIPLES OF THE CONVENTION

1. Non-discrimination (Article 2)

This principle provides that all children should enjoy their rights and no child should suffer discrimination. In the light of its provisions and guided by other relevant international standards, it is understood that non-discrimination means that no child should be injured, privileged, punished or deprived of any right on the ground of his or her race, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, disability, birth or other status.

This principle implies that there is equality of rights. Girls and boys, rich or poor children, living in urban or rural areas, belonging to a minority or an indigenous group should have the same rights as all others.

2. Best interest of the child (Article 3)

The principle of the best interest of the child means that children should be provided for, and always given the best.

The best interest of the child shall be a primary consideration in all actions concerning children, whether undertaken by public social welfare institutions, courts of law, administrative authorities or legislative bodies. Thus, in every decision and action affecting the child, it is necessary to consider the various possible solutions and give due consideration to the best interest of the child.

The best interest is not only confined to public matters. It should also be a basic guideline for private institutions undertaking actions concerning children, including when they decide upon standards relating to health and safety.

This principle also constitutes as a guideline for parents in exercising their responsibility of upbringing and ensuring a harmonious development of the child. Article 18 of the Convention stresses that the best interest of the child should be the parents' basic concern. This principle is therefore to prevail in any case where there is a conflict of interests between the child and those who are responsible for him or her, including the parents.

3. Right to life, survival and development (Article 6)

The article addresses the principle on the right to life, survival and development. The term "survival" introduced a dynamic aspect of the right to life to include not only preventing death penalty, extra-legal, arbitrary or summary executions, and any situation of enforced disappearance, but also measures designed to protect life, including by increasing life expectancy, diminishing infant and child mortality, combating diseases and rehabilitating health, providing adequate nutritious foods and clean drinking water.

The combination of survival and development in this provision stresses the need to promote life in compatible with the human dignity of the child and to ensure fully the right to an adequate standard of living, including the right to housing, nutrition, to the highest attainable standard of health, to ensure preventive health-care measures, including immunization, to adequate information and education on nutrition, hygiene and environmental sanitation, and develop respect for the natural environment.

It also emphasizes the need to ensure full and harmonious development of the child, including spiritual, moral and social levels, developing talents and abilities to their fullest potential, preparing the child for responsible life in a free society.

4. Respect for the views of the child (Article 12)

This principle has been termed also as the "participation" principle. This affirms the principle that the child is a fully-fledged person and establishes participatory rights for children providing them opportunity to participate in the decision-making affecting their

lives. The right of the child to express views therefore applies in relation to family matters, such as the adoption of a child, or in school life, such as the expulsion from school, or in relation to relevant events taking place at the community level, such as the prevention of traffic accidents.

This right should be ensured and respected even in situations where the child would be able to form views and yet unable to communicate them, or when the child is not yet fully mature or has not yet attained a particular older age, since his or her views are to be taken into consideration in accordance with the age and maturity of the child.

Therefore, the parents, members of the family or any person responsible for the child, should give appropriate direction and guidance, in the exercise by the child of his or her rights, in recognition of the evolving capacities of the child. The older the child, the wider self-determination and responsibility he or she should be granted.

4. RIGHTS OF THE CHILD

1. Civil Rights and Freedoms of the Child

Name and nationality (Article 7)

The child has the right to birth registration, name and nationality. Birth registration should be ensured to every child under their jurisdiction, including non-nationals, asylum seekers, refugee and stateless children

The child should have a name “from birth”. Unlawful changes of the child’s name should be avoided. The child should have a name at all times, unless the child requires a new name. The child’s name is essential to allow for the child to know his or her origin when the child has been separated from his or her family – the child’s right to know his or her parents.

The child has the right to acquire and preserve his or her nationality.

Preservation of identity (Article 8)

The child has the rights to preserve his or her identity, as well as to be provided with appropriate assistance and protection when illegally deprived of his or her identity.

Freedom of expression (Article 13)

The child has the right to freedom of expression, including “freedom to seek, receive and impart information”. It reaffirms the consideration of the child as an active person, and not as a simple recipient of ideas or of information. It reflects the natural curiosity of children and their wish to “seek” information, while stressing the important corresponding entitlement of the child to receive such information.

Freedom of thought, conscience and religion (Article 14)

The child has the right to freedom of thought, conscience and religion. Freedom of religion implies the right to have or not to have a religion.

The article also recognizes the rights and duties of parents to provide direction to the child in the exercise of his right.

Freedom of association and of peaceful assembly (Article 15)

The child has the right to freedom of association, including the right to create and the right to join associations, as well as the right not to associate. The right to freedom of peaceful assembly may be exercised for cultural, social or for other purposes, including of a political nature.

The establishment of children's associations, as well as their participation in peaceful assemblies, may constitute important steps to encourage the assumption of responsibilities by the child in areas of concern to him or her, including in relation to school or community life.

It may further contribute to the development of the child's values, including of the child's respect for others, tolerance and understanding. Restrictions of these rights may only be those which are imposed in conformity with the law.

Protection of privacy (Article 16)

The child has the right not to be subjected to any arbitrary or unlawful interference, as well as to be protected in case of such an attack or interference. Unlawful and arbitrary interference is not admitted in cases where the child has been placed for treatment, care and protection and should be respected by all those interacting with the child, including by staff in institution.

Access to appropriate information (Article 17)

The child has the right to access to appropriate information. This information, especially through mass media, should promote the child's "social, spiritual and moral well-being and physical and mental health".

The production and dissemination of children's books should take into account children's recreational and cultural needs, and not only designed to educate the child. Such literature should therefore be appropriate to the child's age while contributing to develop the child's personality and abilities to their fullest potential, promote the child's creativity and artistic spirit and provide the child the necessary skills to allow him or her to participate responsibly and freely in society.

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (Article 37a)

The child has the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment. As an absolute right, any form of torture or punishment are prohibited in all circumstances of children's lives, including situations where children are placed in institutions for treatment, care or protection, including within family life or in the school system.

2. Family Environment and Alternative Care for the Child

This cluster of rights reaffirms the essential value of the family as the natural and fundamental group of society and should be entitled to the widest possible protection and assistance, both for its establishment and for the fulfilment of responsibilities for the care and education of dependent children.

Parental guidance (Article 5)

Parents or members of the extended family, legal guardians or other persons legally responsible for the child, has the responsibilities, rights and duties to provide appropriate direction and guidance in the exercise by the child of his or her rights.

Separation from parents (Article 9)

A child shall not be separated from his or her parents against their will, except when competent authorities determine that such separation is necessary in the best interests of the child. For example, in a particular case involving abuse or neglect of the child by the parents, or where the parents are living separately, decision may be made to separate the child or to determine the child's place of residence.

The child who is separated from one or both parents has the right to maintain personal relations and direct contacts on a regular basis, except if it is contrary to the child's best interests.

If separation results from any action initiated by a the government, such as detention, imprisonment, exile, deportation or death of one or both parents or of the child, the government shall, upon request, provide the parents, the child or another members of the family with the essential information concerning the whereabouts of the absent members of the family, unless the information would be detrimental to the well-being of the child.

Family reunification (Article 10)

A child whose parents reside in different countries has the right to maintain on a regular basis personal and direct contacts with both parents. To this end, the child and his or her parents have the right to leave any country, including their own, and to enter their own country. Applications to leave the country for purposes of family reunification shall be dealt with by the government in a positive, humane and expeditious manner.

The right to leave any country shall be subjected only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order, public health or morals or the rights and freedoms of others and are consistent with other rights recognized in the Convention.

Parental responsibilities (Article 18, para. 1 and 2)

Parents or legal guardians have the primary responsibility for the upbringing and development of the child and the government shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children. The best interests of the child will be their basic concern.

Abuse and neglect (Article 19)

Children should be protected from all forms of abuse, neglect, injury or violence while in the care of parents (Article 19). If such situations occur, the privacy of the family gives way to the intervention of the government in order to ensure that best environment for the child prevails, including the separation of the child from his or her parents in the best interest of the child.

Children deprived of a family environment (Article 20); and Adoption (Article 21)

A child, who is deprived of his or her family environment, has the right to special assistance and protection. The government should adopt alternative care measures that will consider due regard to the natural environment of the child and his or her identity, including placement within the natural family, foster placement, adoption in the country of origin of the child, and only as a measure of last resort, inter-country adoption.

Illicit transfer and non-return (Article 11); and recovery of maintenance for the child (Article 27, para. 4)

Article 11 stresses the responsibilities of the government to take measures to combat illicit transfer and non-return of children abroad. These cases usually arise from situations where children are born from a mixed marriage or parents become separated and reside in different countries. Appropriate measures should undertaken to secure the recovery of maintenance for the child from parents or other persons responsible for the child, both within the country and from abroad, or in particular where the person having responsibility for the child lives in a different country from that of the child.

Periodic review of placement (Article 25)

A child, who has been placed in foster care or in an institution or facility for care, protection or treatment, has the right to a periodic review of the treatment provided to the child. The placement might have been decided to treat the child, for instance because the child is temporarily or permanently, physically or mentally sick, or has any kind of disability.

3. Basic Health and Welfare of the Child

Child-care services and facilities (Article 18, para. 3)

This provision reflects the recognition of the fundamental value of the family and the need for the government to provide assistance to it, particularly parents, in the performance of their child-rearing responsibilities.

Disabled children (Article 23)

Children with mental or physical disability have the right to enjoy a “full decent life”. They should live in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community. Disabled children should not be stigmatised or socially excluded, should gain confidence to be real actors in life and should have effective access to education, training and health.

Health and health services (Article 24)

Every child has the right to benefit from the “highest attainable standard of health”, both physical and mental. The State shall take appropriate measures, particularly:

- to diminish infant mortality;
- to ensure provision of necessary medical assistance and health care;
- to combat malnutrition;
- to ensure appropriate pre-natal and post-natal health care;
- to have access to education and knowledge on hygiene and environmental sanitation;
- to develop preventive health care, guidance for parents and family-planning education and services.

Social security (Article 26)

The right to social security, considered in this article, is also reflected in other international instruments. The wording, however, is somewhat different. Instead of the *right to social security*, the convention refers to the right of the child *to benefit from social security*.

Standard of living (Article 27, para 1-3)

The child has the right to an adequate standard of living. It implies the right to a standard of living that is compatible with the human dignity of the child and which allows for the child's full and harmonious development, including at the physical, mental, spiritual, moral and social levels.

The primary responsibility for the implementation of this right lies with parents or others responsible for the child (para. 2). But the government has the responsibility to assist and support parents who may be in need, with a view to allowing them to promote the upbringing and development of the child.

4. Education, Leisure and Cultural Activities

Education, including vocational training and guidance (Article 28)

The child has the right to education, and to achieve this right progressively on the basis of equal opportunity, shall:

- Make primary education compulsory and available free to all;
- Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- Take measures to encourage regular attendance at schools and the reduction of dropout rates.

This Article stresses the need for school discipline to be administered in a manner consistent with the child's human dignity and in conformity with the provisions and principles of the Convention

Aims of education (Article 29)

The importance for education should be guided by a set of fundamental values and a child-centered approach that will decisively contribute to ensure that the child not only gains formal knowledge and skills, but also further develops in a harmonious way, at the spiritual, moral, social and physical levels.

Leisure, recreation and cultural activities (Article 31)

The child has the right the right to be a child, to play and have recreation which is compatible with the child's age, to rest and to leisure, as well as to participate freely in cultural life and arts.

5. Special Protection Measures for the Child

Children in situations of emergency

Refugee children (Article 22)

A child who is seeking refugee status, whether unaccompanied or accompanied by his or her parents or by any other person has the right to receive appropriate protection and humanitarian assistance. This assistance includes tracing the parents or other members of the family of any refugee child in order to reunite with his or her family. If no parents or family can be found, the child shall be accorded the same protection as any other child.

Children in armed conflicts (Article 38)

Children should not be allowed to take part in armed conflicts. International Conference of the Red Cross and Red Crescent Movement held in Geneva in December 1995, recommended that parties to conflict refrain from arming children under the age of 18 and take every feasible step to ensure that children under the age of 18 do not take part in hostilities.

Physical and psychological recovery and social reintegration (Article 39)

A child, who is a victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts, should benefit from measures promoting their physical and psychological recovery and social reintegration in an environment which fosters their health, self-respect and dignity.

Children in conflict with law

The sentencing of juveniles (Article 37 (a))

Capital punishment or life imprisonment without possibility of release shall not be imposed for offences committed by persons under 18 years of age.

Children deprived of their liberty (Article 37 (b), (c) and (d))

No child shall be deprived of his or her liberty unlawfully or arbitrarily. Deprivation of

liberty should only be used as a measure of last resort or for the shortest period of time possible.

When deprived of liberty, a child shall:

- be treated with humanity and respect for the inherent dignity of human person in a manner according to his or her age;
- be separated from adult;
- have the right to maintain contact with his or her family through correspondence and visit;
- have the right to prompt access to legal and other appropriate assistance.

The administration of juvenile justice (Article 40)

A child, who is accused of or has infringed the penal law, shall be treated in a manner consistent with the promotion of child's sense of dignity and worth.

A child shall not be accused of any crimes by reason of acts or omissions that were not prohibited by national or international at the time they were committed.

Every child accused of any crime shall enjoy the following guarantees:

- to be presumed innocent until proven guilty;
- to be informed promptly and directly of the charges against him or her;
- to have the case determine without delay by a competent, independent and impartial authority;
- not to be compelled to give testimony or to confess guilt, to examine or have examined witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- to have this decision and any measures be reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- to have free assistance of an interpreter if the child cannot understand or speak the language used.

The government is required to promote establishment of laws, procedures, authorities and institutions specifically applicable to accused children, particularly establishing the minimum age below which the children shall be presumed no to have the capacity to infringe the penal law and measures of dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

Physical and psychological recovery and social reintegration (Article 39)

When children are victims of any form of neglect, abuse, exploitation, or abuse, torture or other form of cruel, inhuman or degrading treatment or punishment, or suffer the effects of armed conflicts, measures should be taken to ensure both physical and psychological recovery, while contributing to the social reintegration of the child.

Children in situations of exploitation

Economic exploitation, including child labour (Article 32)

A child has the right to protection from economic exploitation, including through labour, child prostitution, child pornography and sale of children, as well as from any work which is hazardous or which may be contrary to the child's education, to the child's health or in any way be harmful to the development of the child, be it physical, mental, spiritual, moral or social.

To this end, the government shall provide for a minimum age or minimum ages for admissions to employment, appropriate regulation of the hours and conditions of employment; and appropriate penalties or other sanctions to ensure the effective enforcement of this present article.

Drug abuse (Article 33)

A child has the right to protection against their illicit use or drugs, as well as the prevention of the use of children in the illicit production or trafficking of drugs.

Sexual exploitation and sexual abuse (Article 34)

A child has the right to protection against all forms of sexual exploitation and sexual abuse. The government shall take all necessary steps in preventing and combating the occurrence of any of such forms of unlawful sexual activities, and the exploitative use of the child in prostitution or pornographic performances and materials.

Sale, trafficking and abduction (Article 35)

Abduction and sale of, as well as trafficking in children, inducement or coercion of the child into prostitution and pornography should be prevented and suppressed.

Other forms of exploitation (Article 36)

A child has the right to protection from any kind of exploitation that may be prejudicial to any aspects of the welfare of the child.

Children belonging to a minority or an indigenous group (Article 30)

The child who belongs to a minority or an indigenous group has the right to enjoy one's culture, the right to profess and practice one's religion and the right to use one's language.

Module 2 -- CSEC and Child Sexual Abuse: Forms and Definitions

1. INTRODUCTION

CSEC and CSA are two general terms describing the phenomenon of many different forms of exploitation and abuses of children. Child sexual abuse may not be committed for purposes of commercialisation but CSEC definitely involved sexual abuses against the children.

This topic, therefore, tries to identify the different forms of CSEC and CSA in Cambodia and suggests a working definition for each form distinct from the other. Some terms are interchangeably used to refer to this phenomenon, such as rape, sexual assault, sexual exploitation, sex trafficking, prostitution, child pornography, sex slavery, paedophile, debauchery, etc.

2. PURPOSE OF DEFINING CSEC

The identification of different forms of CSEC and CSA with its corresponding working definition aims to have a common standard of terms and definitions of different CSEC and CSA cases and properly categorize them. By categorizing these cases, specific strategies for investigation and responses to each category may be drawn up. Also, drawing out a picture of the situation related to CSEC and CSA for purposes of analysing, information campaign and advocacy may become easier and by using these categories.

Terms and definitions to categorize cases are usually based on the legal relevance of these cases. However, there are only a few legal terms presently being used related to CSEC and CSA, and these terms generally apply to all age group of the population.

3. CSEC DEFINED

As generally described and understood, commercial sexual exploitation of children is the using or utilizing of children in sexual activities for purposes of gaining profit by an individual or group.

The phenomenon of CSEC is rapidly becoming rampant due the flourishing sex industry in Cambodia and in the region. By whatever forms, these are sexual abuses against children and are becoming widespread in the society. The most common forms of these abuses are:

- child rape and sexual abuse;
- employing or using children as “prostitutes” in the brothels, coffee shops, karaoke bars, massage parlour, and clandestine brothel houses;
- trafficking in children for sex work, pornography, and other sex-related activities;
- selling of “virgin” children by parents or guardians to individuals or traffickers to earn money or as a form of payments of their debts;
- using of children in producing pornographic materials.

4. AGE OF CONSENT

The age of consent to sexual intercourse or sexual relations is not legally defined in Cambodian laws. This “age of consent” means that a person who reaches this age is no longer prohibited to engage in sexual activities. For example in a statutory rape law, which is not yet codified in Cambodia, it prohibits any act of sexual intercourse accomplished with a female under a certain age limit. If the age limit is 18 years old, then in this case, an adult person who performs sexual intercourse with a female under this age, regardless of consent, is guilty of committing “unlawful sexual intercourse” or statutory rape.

Defining the “age of consent“ protects the rights of the children, especially girls under a specified age, from any sexual assault by any means.

Under the Convention on the Rights of the Child, the age of minor is under 18 years old. While the Convention allows national legislation to set up minimum age for specific purpose, such as age for admission to employment (art. 32) and minimum of age which children are presumed not to have capacity to infringe the law (art. 40.3(a)), all other provisions refer to a child under 18 years of age, unless specifically indicated in particular provisions.

In the criminal law, it specifies the age of minor at 16 years old, and the trafficking law provides the age limit under the age of 15. However, these age limits are only used as additional aggravating circumstances to the crimes to impose higher penalties.

In the following section, the age limit considered for the minor is under 18 years old, except for the legal terms and definitions which specify different age benchmarks.

5. FORMS AND DEFINITIONS

The following are the different forms of CSEC and CSA. The terms used to categorize the form of CSEC and CSA are all generic terms and have no exact legal counterpart. The legal terms that resemble to particular generic term are explained under each term.

The terms and definitions presented here are all suggestions.

1. Child Rape

The most common form of sexual abuse against a child, which may or may not be for commercial sexual exploitation, is child rape. Child rape is not specified in the Cambodian criminal law. The law that applies to this case is “rape”.

The legal definition of “rape” is contained in the Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia During the Transitional Period (UNTAC), 1992, or criminal law. Article 33, under the category of crime, defines rape as “*any sexual act involving penetration against a non-consenting person*”. And if rape is “*accompanied by fraud, violence or threats, or if it is committed by anyone in a position of authority over the victim*”, the penalty is increased.

There are some essential problems with this definition.

- The criminal law does not define the age of minors and does not specifically recognize statutory rape (unlawful sexual intercourse with minors).
- The term “penetration” is not defined. If penetration is interpreted as penetration by penis only, then, the use of other objects will not qualify the act as rape, which is more stupid and inhuman.
- The term “consent” is not also defined. This term can be interpreted to mean that if the victim offers no resistance, then she “consented” to the sexual act.

Clearly, this law does not provide special protection to “minors”, who are more vulnerable. Because of many loopholes in the law, offenders continue to commit “child rape” and perpetuate societal attitudes that having sex with minors is acceptable.

To categorize this form of child sexual abuse as child rape, the following definition may be used:

Child rape is an act of sexual intercourse, including penetration of any other objects to the vagina, anus or mouth, accomplished by any person through the use of any means to a minor person, including those under the exploits of prostitution.

In this definition, the act of the person is executed “through the use of any means”, which indicates that the victim is unwilling or lack of “informed consent”. Therefore, in this definition child rape covers:

- a) rape of minor by coercion;
- b) rape of minor by luring or enticing the minor in exchange for money or other valuable things and promises (such as in courtship);
- c) rape of minor who is bought from his/her parents or guardian, pimp, trafficker/seller or buyer; or as a form of payment of the debt of the parents;
- d) rape of minor who is a prostitute

The last type of rape is very difficult to monitor and investigate because it usually happens in the brothels, hotels and other “sex areas”. However, there are many unreported cases of rape against prostitutes that occurred outside these areas. These victims do not report to the authorities or their parents for fear of being publicly known that they are prostitutes, especially those who work as prostitutes without the knowledge of their parents. This type of case can be documented.

The legal application of this definition is very complicated and is unlikely to happen. However, legal actions under this category are possible. Offenders can be legally charged of committing a “rape”, “indecent assault”, “debauchery”, and even “trafficking”.

2. Child Sexual Abuse

Child sexual abuse is a very general term that may also cover “child rape” and any sexual assault to a child. For purposes of classifying, this term refers to any sexual abuse other than “child rape”.

This form of sexual abuse is described in two different laws: “Indecent assault” which is a

misdeemeanour offence under the criminal law, and “Debauchery” which is a crime under the trafficking law.

“Indecent Assault”

Article 42 of the Cambodian criminal law defines indecent assault as any act committed by any person “*who sexually offends another, un-consenting, person of either sex by touching, caressing or any other sexual act not involving penetration*”. And if “*accompanied by fraud, violence or threat, or if it is committed by any person with authority over the victim, or if the victim is under 16 years of age*”, the terms of imprisonment is doubled.

The mention of age of minor in this law is only an aggravating circumstance to impose higher penalty to the offender. Similar to the rape law, the “no consent” of the victim has to be established in order to penalize the offender.

Section 3 of article 42 mentions “minor” and “consent”. This section states that “*any person who procures, entices or leads away, for purposes of prostitution, or exploits the prostitution of a minor, even with the consent of that minor*” is guilty of indecent assault. The age of minor in this law is interpreted as below 18 years old.

While this law appears to have been drafted against trafficking of minors and now overtaken by the new trafficking law, it is sometimes used by Cambodian courts against sexual offending. While the term “exploits” is not defined, it can be interpreted as using, utilizing, or taking advantage of a minor who is a prostitute or under prostitution, which may include having sexual act with minor prostitutes with or without consent. If it is interpreted this way, a person can be penalized of having consensual sex with a minor who is a prostitute under the indecent assault law, while the person who have consensual sex with minor who is not a prostitute has no penalty.

“Debauchery”

Article 8 of the trafficking law or Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Persons, 1996, states that it is punishable for any person “*who commits debauchery acts onto a minor person of below 15 years old, even if there is consent from the concerned minor persons or if upon buying such minor person from somebody else or from head of the prostitutes*”.

The Khmer meaning of the word “debauchery” is very broad which can be understood as referring to offensive sexual acts. Therefore, this means that any person who indulges in sexual acts with children below 15 years of age even if there is consent from the victims is punishable by 10 to 20 years imprisonment. Since it is a crime under the trafficking law, the offender committed partly an act of trafficking by buying these minors from somebody or pimps for sexual activities. This law is usually charge to a person who is actually producing pornography materials on films and paedophiles, who are mostly foreigners or sex tourists.

Indecent assault and debauchery cases can be classified as child sexual abuse. The definition below may be used for child sexual abuse.

Child sexual abuse is an act of any adult person to involve any minor person, including those under the exploits of prostitution, in a sexual activity which includes:

- **sensual kissing of the mouth or other sexual parts of the child’s body or of the offender,**
- **touching, fondling, or caressing of the sexual parts of the child’s body or of the offender;**
- **exposing the child to adult sexual activity or pornographic movies and photographs;**
- **having the child pose naked or perform sensual gestures on camera or person.**

This form of sexual abuse covers the acts described in indecent assault law and debauchery law.

3. Child Sex Trafficking

This form of commercial sexual exploitation of children is incorporated in the Law on Suppression of Kidnapping, Trafficking and Exploitation of Human Persons, 1996, or the trafficking law.

Article 3 of Chapter II entitled “Kidnapping of Human Persons for Trafficking/Sale or for Prostitution”, states that any person “*who lures a human person, even male or female, minor or adult of whatever nationality by ways of enticing or any other means, by promising to offer any money or jewellery, even though upon there is no consent from the concerned person, by ways of forcing, threatening or using hypnotic drugs, in order to kidnap him/her for trafficking/sale or for prostitution*”.

The age of minor recognized in this law is under 15 years old, which imposes a higher penalty.

For purposes of investigating trafficking in children for sexual exploitation in Cambodia, the following definition may be used:

Child sex trafficking is an act or transaction of any person to recruit, transport, or obtain by any means any minor person, in and out of the country, and transfer or sell them to recruiters, traffickers, or buyer who forced these minors into sexually oppressive and exploitative situations, such prostitution and sex slavery, for profit.

In this definition, the act or transaction committed by any person or group of persons includes:

- cheating the child or his parents or guardians by promising jobs or schooling;
- kidnapping a child by force, threats or use of hypnotic drugs;
- buying a child for false marriage or false adoption in an out of the country;
- taking a child to work to pay off the debts of his/her parents or guardians.

4. Child Prostitution

Article 34 of the Convention on the Rights of the Child, requires States Parties to undertake appropriate measures to prevent the “*inducement or coercion of a child to engage in any unlawful sexual activity and the exploitative use of children in prostitution or other unlawful sexual practices*.”

Article 4 and 5 of the Cambodian trafficking law, penalizes a male or female person who is pimp or head of prostitutes for 5 to 10 years imprisonment who:

- supports or protects “prostitutes” or seeks customers for them;
- regularly shares the benefits obtained from prostitution;
- brings men or women to train and convince them become prostitutes;
- acts as a mediator between prostitutes and head/owner of brothel;
- confines a person to commit prostitution.

The punishment is doubled (10 to 20 years) if the offence is repeated or if the pimp:

- commits the offence onto a minor under 15 years of age;
- commits the offence by coercion, violence, threat, or weapon;
- is a husband, wife, boyfriend, girlfriend, father, mother, guardian who forces a person to commit prostitution;
- forces a person to commit prostitution outside the country, or forces a foreigner to commit prostitution inside the country.

Prostitution is generally described, as the selling of sexual services for money and the prostitute is a person, male or female, who engages in sexual activity for money. While there is no law criminalizing or legalizing prostitution in the country, forcing minors to engage in prostitution is obviously exploitative. And to categorize this as a form of commercial sexual exploitation of children, the term “child prostitution” may be used. The following definition may be used.

Child prostitution is the act of inducing or coercing minor persons to engage or to be used in any illicit sexual activity or sexual practices by any person to gain profit.

Based on the trafficking law, child prostitution is committed by any person who:

- forces a minor person to become a prostitute; and
- supports, protects, benefits, and seeks customers to the minor prostitutes.

5. Child pornography

Another form of commercial sexual exploitation of children and child sexual abuse is child pornography.

Child pornography is the explicit presentation of sexual activity involving children in performances, literature, films, and other audio-visual forms.

Child pornography is committed by any person who:

- operates or manages a place showing pornographic performances involving children;
- induces or forces children to engage in sexual activity in the process of producing pornographic materials, such as films or photos;

In child pornography cases, other forms of sexual abuse are also committed, for example, child rape and child sexual abuse.

6. SOME PROBLEMS IN THE PROSECUTION OF CSEC AND CHILD SEXUAL ABUSE CASES

The following are some of the problems affecting the prosecution and protection of children

against CSEC and CSA:

- The current laws protecting children from CSEC and CSA are seen to be insufficient, inadequate and inconsistent. Some terms are not defined completely and precisely, including common minimum age of children to have special protection from CSEC and CSA cases (as discussed in the previous topic).
- There is a lack of legislated mechanisms and guidelines for the implementation of laws.
- Most cases are continued to be settled by compensation. Some rape cases are settled by marriage between the offender and the victim, which oftentimes resulted to divorce. This out-of court settlement loses the importance of deterrence factor in the legal system.
- Impunity continues. Offenders, who are mostly serving as civil servants, or a person whom people felt is above the law because of his position of authority or strong influence with politicians, court and police officials are not prosecuted. Again, the deterrence factor is undermined.
- Inadequate sentencing is given to criminal and serious cases. Rape cases are reduced to indecent assault which the offender can benefit “suspended sentences”. Article 70 of the Criminal Law states that “*Prison sentences, but not those for criminal confinement, may in their entirety or in part always accommodate a reprieve. In such instance the accused will not serve his or her sentence so long as he or she does not commit another offence outlined in preceding articles for a period of five years after judgment*”. Rape cases are often reduced to indecent assault and imposed with suspended sentences.
- People, specially in the rural areas, still continue not to trust the judiciary. They thought that of bringing cases to the court is useless because they perceive the court system as a tool for the powerful and wealthy and does not protect the interest of the poor people.
- Many families do not bring the cases to the authorities and sometimes keep quite because of shame and stigma associated with sexual assault cases and they want to protect their reputation in the society.
- Police, court staff, judges and other officials see the potential of making money by pressuring the family or complainant to accept money not to pursue a sexual assault case through the legal system. These out-of-court settlements perpetuate impunity and corruption in the judicial system.
- Problem with evidences. Judges usually look for evidence aside from the victims testimony. Most cases have no witnesses and medical evidences, especially when victims do not report immediately because of fear and trauma. There is still lack of competent medical practitioners, especially in the rural areas, and modern medical facilities.

7. COMPARISON OF CSEC/CSA CASES AND CRIMINAL/TRAFFICKING LAWS

Case	Offender	Acts / Other Facts	Victim	Punishment
child rape	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> sexual act with victim penetration using penis, other materials to vagina, mouth, anus regardless of consent 	<ul style="list-style-type: none"> under 18 years under exploits of prostitution 	
Art. 33: Rape	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> sexual act with victim penetration (?) no consent 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 5-10 years
	<ul style="list-style-type: none"> any authority 	<ul style="list-style-type: none"> sexual act with victim penetration (?) fraud, violence or threats 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 10-15 years
Art. 8: Debauchery	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> debauchery acts (?) with victim (penetration) regardless of consent 	<ul style="list-style-type: none"> below 15 years bought from somebody or head of prostitute 	<ul style="list-style-type: none"> 10-20 years

child sexual abuse	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> sexual act with victim by sensual kissing, touching, fondling, or caressing of sexual parts, exposing to sexual activity, pornography regardless of consent no penetration 	<ul style="list-style-type: none"> under 18 years under the exploits of prostitution 	
Art. 42: Indecent Assault	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> sexually offends victim by touching, caressing, other acts no penetration regardless of consent 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 1-3 years
	<ul style="list-style-type: none"> any authority 	<ul style="list-style-type: none"> sexually offends victim by touching, caressing, other acts no penetration regardless of consent fraud, violence, threat 	<ul style="list-style-type: none"> any / under 16 years 	<ul style="list-style-type: none"> 2-6 years
Art. 8: Debauchery	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> debauchery acts ? with victim (no penetration) regardless of consent 	<ul style="list-style-type: none"> below 15 years bought from somebody or head of prostitute 	<ul style="list-style-type: none"> 10-20 years

child sex trafficking	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> transfer of victim by any means to trafficker / seller / buyer for prostitution regardless of consent 	<ul style="list-style-type: none"> under 18 years 	
Art. 3: Kidnapping of Human Persons for Trafficking / Sale or for Prostitution	<ul style="list-style-type: none"> any trafficker / seller buyer 	<ul style="list-style-type: none"> lures, entices, promises, or any other means, kidnap and transfer to trafficker/seller for prostitution regardless of consent 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 10-15 years
	<ul style="list-style-type: none"> any trafficker / seller buyer 	<ul style="list-style-type: none"> lures, entices, promises, or any other means, kidnap and transfer to trafficker/seller for prostitution regardless of consent 	<ul style="list-style-type: none"> under 15 years 	<ul style="list-style-type: none"> 15-20 years
	<ul style="list-style-type: none"> accomplice 	<ul style="list-style-type: none"> provides money or means for committing offence 	<ul style="list-style-type: none"> any under 15 years 	<ul style="list-style-type: none"> 10-15 years 15-20 years

child prostitution	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> compels, coerce a victim by any means prostitution regardless of consent 	<ul style="list-style-type: none"> under 18 years 	
Art. 5: Pimp	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> supports or seeks customers for prostitutes, shares benefits from prostitution, trains and convinces to become prostitutes, mediates between prostitutes and brothel head/owner, confines and force any to commit prostitution 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 5-10 years
	<ul style="list-style-type: none"> any relatives friend, guardian 	<ul style="list-style-type: none"> any of the above coercion, violence, threat, weapon force to commit prostitution outside the country, or if foreigner, inside the country 	<ul style="list-style-type: none"> under 15 years foreigner 	<ul style="list-style-type: none"> 10-20 years
Art. 7: Debauchery	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> opens a place for debauchery or obscene acts 	<ul style="list-style-type: none"> any 	<ul style="list-style-type: none"> 1-5 years 5-30 m Riels

	<ul style="list-style-type: none"> • any 	<ul style="list-style-type: none"> • opens a place for debauchery or obscene acts • repeat offence 	<ul style="list-style-type: none"> • any 	<ul style="list-style-type: none"> • 2-10 years • 10-60 m Riels
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child pornography	<ul style="list-style-type: none"> • any 	<ul style="list-style-type: none"> • sexual activity • production of pornographic materials • regardless of consent 	<ul style="list-style-type: none"> • under 18 years 	
Art. 8: Debauchery	<ul style="list-style-type: none"> • any 	<ul style="list-style-type: none"> • debauchery acts (?) with victim • regardless of consent • (production of pornographic materials?) 	<ul style="list-style-type: none"> • below 15 years • bought from somebody or head of prostitute 	<ul style="list-style-type: none"> • 10-20 years

8. SUMMARY

As recognized by the Convention on the Rights of the Child, the child under 18 years of age has the right to be protected from “*all forms of sexual exploitation and sexual abuse*” and “*all other forms of exploitation prejudicial to any aspects of the child’s welfare*”.

To be able for the child to be protected from all these forms, national legislation of laws protecting the child is of extreme importance. Civil society plays an enormous role of pressuring and influencing the government in legislating laws and guidelines for the protection of children.

Identifying the different forms of CSEC and CSA is already one step towards achieving this role. The specific forms of CSEC and CSA may have not yet been exhausted in this topic for one reason or another. Nevertheless, the civil society led by NGOs with specific concern on these issues must continue to bring the issues into the open and initiate in elaborating the different forms of CSEC and CSA and the factors behind these issues.

Module 3 -- Investigation and Documentation

1. WHAT IS INVESTIGATION?

Generally, investigation is a process of gathering data or information and evidences about a particular case or incident to verify the accuracy of the information of said case or incident and establish a basis for actions.

In the administration of justice, the purpose of investigating a crime is to gather evidence, identify the suspect of the crime, and to present evidence before the court in order to decide the guilt or innocence of the accused.

For most NGOs, investigation is an integral part of their monitoring work which aims at gathering information of cases under their mandate for purposes of establishing trends and patterns, providing legal and welfare services, and for their advocacy activities.

The investigation process therefore differs according to the nature of investigation, who is investigating and for what is the purpose of investigation. In any process, investigation

2. PURPOSES OF INVESTIGATION BY NGOs

For an NGO, investigation efforts may be limited or exhaustive depending on the purpose of the said NGO. The following are some of these purposes:

1. Providing Immediate Assistance to Victims

This purpose is limited to providing the urgent needs of the victim or his/her family. For example:

- searching victims who are reportedly kidnap;
- follow up arrested victim to ascertain his/her safety;
- recovery or rescue of victims kidnapped for prostitution;
- immediate legal assistance

Investigation activities with this purpose is limited to gathering basic information of the victim, perpetrators (if possible), and the description of incidents, time and places. Due to the urgency of the assistance needed, there is not much time to conduct investigations. However, this can be an initial investigation if the NGO as another purpose of doing so.

2. Relief and Rehabilitation Assistance

With this purpose, the investigation is concerned with gathering basic information with more emphasis on the situation of the victims rather than on the motive or cause of the victimization. Information usually focus on the health and living conditions, psychological effects to the victims, and other situation that requires relief and rehabilitation assistance to the victims.

3. Publicity and Advocacy

This type of investigation is only a part of the monitoring activity of the NGOs with regard to specific crimes or violations which they used for information and advocacy campaign. With this purpose, the monitoring system of the NGOs includes systematic documentation to establish trends and patterns of occurrence of specific category of crimes and violations which can be used for analysis and monitoring the compliance of government's duties and responsibilities to protect rights. For example, the issues related to CSEC and child sexual abuse not only requires investigation of individual crimes and violations but also a continuous monitoring of developments in terms of legislations, socio-economic changes, effects in the sex industry, and the people's awareness to such problems.

4. Legal Assistance

NGOs involved in providing legal assistance to victims of CSEC and child sexual abuse cases need more comprehensive knowledge and skills on investigation work, including legal and criminal investigation. However, it depends on the level of assistance an NGO provides to the victims. With the existence of law organizations, an NGO may only refer the case or victim to them and provide technical and financial support to pursue legal proceedings.

3. METHODS OF INVESTIGATION

In gathering information, three common methods are being used: interview or interrogation, ocular inspection, and collection of documentary and material evidences.

1. Interview or interrogation

Interview is the most common activity of gathering information by asking the person who knows about the incident or case. This method will be dealt with at length in Module 4 - and Interviewing Child Victims/Witnesses.

Interrogation is also a method of gathering information by asking questions to the persons. It is done in a formal manner and the person under interrogation is usually under obligation to answer questions. This method is usually used in police investigation and legal proceedings. Unlike interrogation, interview is more informal and flexible, and uses variety of approaches depending of who is being interviewed.

2. Ocular Inspection / Physical Examination

Ocular inspection is also very important in the investigation. The investigator who examines the body of the victim without asking or the place where in the incident took place can "see" many information. The investigator has to be very keen in observing physical objects, location of the place, and other things he sees and describe all these things in a written report. During the actual ocular inspection, it is advisable to write down on his notes the information that describes what he/she sees. Do not rely on memory. A camera and tape recorder can help in recording and documenting this information.

3. Collection of documentary evidences

Another method of investigation is the collection of documentary evidences where information can be extracted. For example, birth certificates will tell us what is the age of the

victim, name of his/her parents, origin of birth, etc. Another example is medical certificate. If the child was raped and the victim was brought immediately to a doctor for medical examination, the document can provide information on the findings of the doctor.

These documentary evidences collected may be used by the legal counsel, police or prosecutor as legal evidences to prove allegations. The type of evidences acceptable in the legal proceedings will be discussed in the Module 5 – Evidence Concepts and Role of NGOs in Gathering Evidences”.

4. INVESTIGATION OF CSEC AND CHILD SEXUAL ABUSE

1. The Structure of the Investigation

The structure of the investigation of CSEC and child sexual abuse vary considerable from one situation to the other. Usually, investigation involve four types of professionals: social caseworkers, law enforcement officers, physicians, and mental health professionals. Other professionals may be also involved.

The coordination and organization of the investigation also varies in each situation.

- Sometimes it is fortunate enough to have multi-disciplinary team composed of actively involved professionals, who serve as consultants;
- Other situation, law enforcement and NGO investigators or care providers are well integrated, but the involvement of other professionals are not;
- Or, unfortunately, the investigation is haphazard and poorly organized so that professionals are not aware of what others are doing.

Even though the situation varies as to who does what and when it is done, there are no specific components to a good investigation.

2. Gathering Information from the Referral Source

The investigation usually begins with an information reported to the NGO office or law enforcement by a complainant or referral sources. The interview with the referral source or complainant should include of what the child has said or done that the source / complainant thinks it indicates possible child sexual abuse or exploitation, information about the other parties (offenders, traffickers), and other information such as the location and relevant information.

3. Interviewing the Child

Depending on the case being reported by the referral source, interviewing the child is the next process in the investigation. If the child is confined in the private place of the pimp or trafficker, there is no way the investigators can interview the child. In this case, the investigators should find ways to confirm that sex trafficking or forced prostitution is in progress and that the child needs to be rescued. Then, recovery or rescue operations should be planned out (Discussion on this matter is presented in module ____).

If the child will be available for interviews, several issues related to the child interview should be determined before it takes place. These include

- where it should occur,

- who should be present,
- how information from the interview will be recorded, and
- how many interviews are needed.

It is advisable, of course, that the interview should occur in a location the child perceives as a "safe place" and can "feel free". In most instances, it should not be the child's home, but it may be the NGO's office or centre, or a therapist's office. The police station or headquarters seemed to be not recommended, unless the place will not intimidate the child.

As mentioned above, investigations may be conducted jointly by the NGO investigators and law enforcement. In some situation, the NGO is responsible for the child interview, and the law enforcement interviews the alleged offender. In other situation, both are present at the child interview, although only one usually conducts the interview, the others assists like taking notes. In some situation, it has to be determined if aside from the NGO investigators and law enforcement, it is necessary to get another person, like interview specialist or therapist, to interview the child.

Information gathered during the child interview should be recorded. This may be videotape, an audiotape, or notes. Notes are more easily taken by someone who is not interviewing the child. Which means to use in recording in each situation should be included in determining before the interview.

The number of interview sessions usually depends on who is conducting the investigation. In some cases, the NGO or law enforcement conducts one interview. If no confirming evidence emerges and there is no other supporting evidence, the NGO or law enforcement will usually deny the case after a single interview.

Interviewing the child before interviewing the parents is most favourable. The reason for this is that the child's statements and behaviour are the primary means for determining whether sexual exploitation or abuse occurred. Also, the information gathered from the child may be useful in later interviews with the non-offending parents and alleged offender.

As part of the investigation, it is important that all children, both males and females in the target victim's family or place the victim resides (like orphanage) are interviewed. There are two reasons for this: first, offenders generally have multiple victims, not a single one; second, even if other children are not victims, they may be witnesses. The child victim and the other children should be interviewed individually.

4. Medical Examination

The medical examination may take place before interviewing the child if there is a necessity of an immediate medical examination especially when the abuse is quite recent and/or there is concern about injury or disease. Normally, the child should receive a medical examination at some point during the investigation as part of assuring the child that he/she is being taken cared of.

5. Interviewing the Non-offending Parent or Guardian

Interviewing the mother or guardian (step mother, foster mother) has several purposes:

- to gather additional information about the likelihood of the sexual abuse;

- to determine whether the mother or guardian is protective and supportive of the victim;
- to understand the causes or dynamics leading to the sexual abuse or exploitation.

Mothers and guardians may provide information that either supports or refutes the child's allegation. The typical response of mothers confronted with an allegation of sexual abuse and exploitation is denial, either she is aware or not. The investigators should carefully evaluate the response of the mother or guardian, like:

- "this couldn't have happened because the child is never alone with the alleged offender," or
- "the child has a long history of telling lies"

A major purpose of the initial interview with the mother is to assess her ability to provide support for the child.

The following factors should be examined to determine whether the mother will act in the child's best interest:

- the quality of her relationship with the child, which may be mostly positive, ambivalent, or mostly negative;
- her willingness and/or ability to protect the victim, whether or not she has lingering concerns about the veracity of the allegations.

A possible issue may need to be pursued in the interview with mother in which there is an antagonistic relationship between the mother and the victim. Such case, the victim was forced or encouraged to escape from her home and end up with traffickers or pimps.

Finally, the interview with the mother can be used to gather information about the causes or dynamics of the sexual exploitation and abuse.

6. Interviewing the Alleged Offender

Legally, it is the law enforcement who will conduct the interview or interrogation of the alleged offender of the child abuse or exploitation, such trafficker or paedophiles. In addition, the law enforcement officer can obtain a warrant to search the premises and seize relevant physical evidence and has the capacity to "preserve the chain of evidence," so that the physical evidence will be admissible in court. Police officers are also the only professionals who can make arrests.

NGO investigators may or should also involve in interviewing the alleged offender in proper coordination with law enforcement. The purpose of this involvement is for the NGO to be able to compile information gathered or disclosed by the alleged offender, for example in making profiles of offenders. This profile includes possible relationship with the victim, victim's family, and connections with syndicates.

INVESTIGATION GAME

Introduction:

This game is to test the participants in gathering information. The time element and decision making are very important. The first one to complete and make decision on what to do wins as long as the required sequence and information are correctly gathered.

Instructions:

1. Five sheets of paper with written information and instruction will be posted on the wall around the training room. The papers are in sequence but they will be posted on the wall randomly. Only information from 4 paper are required for them to complete their investigation.
2. The participants will be grouped into 3's. One of them should be the one to write the information they will find on the paper.
3. Each group will be asked to choose which paper they will start. On the paper, they will find the instructions what to do next, which they have to follow. A table on the front will serve as the "finish line" marked "police" and "NGO", which the group will going to report. The first group to report to either "finish line" wins.
4. The information that they have collected will be checked by the facilitator if the sequence is correct and the required information was written. Extra information will cause deduction to their points.
5. When all group reports, they will be asked why they report to the "police" or to the "NGO".

The papers with printed information:

Below is the information and instruction that will be printed in the paper. The sequence number and title should be printed at the back of the paper.

1. (WHO-VICTIM)

"I'm Channy, 16 years of age, resident of Takeo, student, daughter of Sophal and Roath"

If your information is complete, please report to the NGO or POLICE.
If not, ask how it happened.

2. (HOW)

"My friend, Sokunthea, invited me to come here in Phnom Penh to look for a job. She brought me to the coffee house to work and will stay there."

If your information is complete, please report to the NGO or POLICE.
If not, ask why they confined me.

3. (WHY)

"I serve coffee and food to the customers during the night. Some customer ask to sleep with them in the hotel. If I have no money, I go with them and half of the pay goes to the owner of the coffee shop."

If your information is complete, report to the NGO or POLICE.
If not, ask where I am now.

4. (WHY)

They said if I will work hard and cooperate I can earn more money. For a month they will give me \$20. They said I can go home after a year.

If your information is complete, report to the NGO or POLICE.

If not, ask where I am now.

5. (WHERE)

"I always go to that place, it's called Happy Coffee Shop. There are many girls, some of them look very young, but I don't know their ages. I always their names whenever I go inside, but cannot remember them."

If your information is complete, please report to the NGO or Police.

If not, ask about my identity.

6. (WHERE)

"This place is called Makara Coffee Shop. This shop operates here in Toul Kourk for almost a year already. We have many girls here coming from different provinces who looked for job. Channy and Sokunthea worked here."

If your information is complete, please report to the NGO or POLICE.

If not, ask about my identity.

5Ws AND 1H - A GUIDELINE FOR GATHERING INFORMATION

5Ws and 1H is a very practical tool in gathering information through interviews, which is now commonly used by journalists and NGOs in their investigation. This tool of gathering information is a very flexible yet complete guideline to gather complete information related to the particular crime or violation. It can also be used in a variety of purposes, for example, formulating questionnaires and designing investigation reporting formats.

The 5Ws & 1H represents six general categories of information: the what, who, where, when, why and how. Each category consists of an endless list of specific information related to that category. It is important to note that CSEC and child sexual abuse cases may not only involve a single act of crime or violation. It may involve a series of acts, whether they constitute another type of crime or violations, and these information should be included by using the 5Ws and 1H.

What

This category of information refers to the **acts or actions committed**. It usually answer the question: **What happened? Who DID WHAT to whom?** This information refers to:

- **crime or violation:** the acts constituting a crime or violation;
- **effects or results of the acts:** damage or injury
- **responses:** actions taken by other persons

Who

This category of information refers to the **person or persons** involved in the crime or violation. These persons include:

- victim or the person who was injured or the object of the act of crime or violation;
- perpetrator or the person who committed the act directed to the victim;
- accomplice or persons helping the perpetrator;
- witnesses or persons who saw, heard, told by the victim or other persons;
- persons who respond to the crime or violation.

The specific information under this category include:

- **personal information**, such as (sample of list only):
 - name (nickname or full name);
 - address (house number, street, sangkat/group, village, commune, district, province);
 - age or date of birth and place of birth;
 - name of parents
 - ethnic origin;
 - religion;
- **physical description**, such as: face, body built, distinguishing marks, clothes or uniforms, etc.

When

This category of information refers to the various **date and time** of the occurrence of each act or action committed in the crime or violation.

- **exact date and time**: (day, month, year, hour, minute)
- **description of date and time**: (direction of sun or moon, intense of darkness, holidays, public occasions, etc.)

Where

This category of information refers to the various **places or locations** where the acts or actions were committed or happened in the commission of the crime or violation.

- **exact address**: (house number, street, sangkat/group, village, commune, district, province);
- **description of the place**: landmarks (buildings, trees, ponds, rivers, bridges, installations, etc.) distance from landmarks, location in an area (north, south, west, east)

Why

This category of information refers to the **motive** of committing the acts or actions. This information can be:

- **personal motive** (or intention, reason, aim, purpose) of the perpetrator in committing such actions). This information is usually expressed by the perpetrator him/herself to the victim or other persons.
- **background** of the persons, place or incident. This information provides suggestions and ideas only in establishing the motive of the acts.

How

This category of information refers to the **method** by which the acts were committed. It describes how the action is being carried out and what instruments or tools are used.

5. DOCUMENTING THE INFORMATION

The final phase of any investigation activities, whether preliminary or final, is the writing of a report. In criminal and judicial procedures, a format has to be followed strictly by the police, prosecutor and investigating judge. For human rights organizations and NGOs, the format depends on how the organization designs it.

Most human rights organizations use the “events” methodology that applies the “violations” approach of monitoring. This approach seeks out the violations of recognized rights, rather than the steps taken by government to comply with their obligations. This is commonly used in monitoring and investigation of civil and political rights violation. For example: Extra-judicial killing is a violation of the right to life. “Violations” approach can be also applied in monitoring and investigation of CSEC and child sexual abuses issues. For example: sex trafficking is a violation of the right of the child to life, survival and development and the right to be protected from sexual exploitation.

In this documentation method, information gathered is put together using events as organizational units. It involves identifying the various acts singly, or in combination with related acts. These acts are treated as events. The following are some of the guidelines.

1. Distinguishing Acts from Each Other

The term “act” mainly means a single piece of action, which is committed by an individual or group against another. The criteria that are used in distinguishing acts from each other are the following:

- type of act
- victim
- perpetrator
- location
- time

An example of the type of act is when a girl is kidnap, one act is committed; if she is sold to the brothel, another act is said to be committed as the type of act differs from the first.

Any substantial difference in terms of any of the other criteria would mean the need to consider a separate act. For example, we say that two acts are committed when two girls are kidnapped, there being a difference in terms of victims. We also say that two acts of rape are committed when a victim was raped by two men at the same time, there being a difference in terms of perpetrators.

2. Constructing an Event

An “event” is something that happens, with a beginning and an end, and which progresses until its logical conclusion. It could be a single act, a series of related acts, or a combination of related acts happening together.

For ease in organizing information, the scope of an event should be as narrow as possible. To isolate an event, one can start with an identified act, such as kidnapping. If other acts have occurred, examine whether these are intrinsically related to the first act. If they are (e.g., selling the victim to the brothel), then treat all these as just one event.

In terms of the number of acts it contains, an event can be any of the following:

- one-act event – consists of act which is usually completed immediately, such as the kidnapping of a child.
- multiple-act event – many acts in one event, such as the event with a series of related event. Example: kidnapping – selling of the child to a trafficker – forcing a child to sleep with customers
- event with no act – means that the event is already clear but no act can be determined yet. This is an exception when an investigation still has to be carried out and what is available is only general information and not yet details. For example: a report came that a number of trafficked young girls are on the way to Phnom Penh.

3. Involvement

Systematic documentation of human rights violations means that it must be able to show not only what exactly was done to a victim but also who did it and in what capacity.

Just as there are different types of acts, there are different levels of involvement by perpetrators. Involvement refers to the part played by a perpetrator in regard of a particular act, whether as one who directly committed it, or otherwise. For example, in the case of sex trafficking, involvement by perpetrators can be in terms of any of the following:

- directly carried out the act
- gave orders that led to the execution of the act
- was a passive accomplice in the execution of the act
- confirmed to be present during the execution of the act
- suspected of involvement in carrying out the act

4. Actions Taken in Response to Events

There are some actions which are not necessarily part of an event but are undertaken usually in response to it and are also relevant in the documentation. This action is called intervention, which is any action by a party designed to change the course of an event or the status of those involved in the event, especially in terms of assistance. It could be for instance, the examination of a victim to seek marks of torture, or the preparation of a press release to denounce a massacre.

The individual or group who intervenes in an event, such as to aid a victim, or to seek to stop an ongoing violation may be termed as Intervening Party.

5. Additional Information: Biographic Data

The sets of information about each individual or group in relation to a particular time are referred to as biographic data. One example where this could be useful is in tracing the history of a perpetrator, such as his/her connection with politicians/businessmen or with organized syndicates.

6. Additional Details

A set of information specific to a certain type of act is referred to as additional details. For example, the additional details of medical report obtained by the investigator, information related to the prosecution of perpetrator such as court charges, investigating judge, etc.

7. List of Attachments and Evidences

The last portion of the report may contain the listing of attachments and evidences. For example, sworn statements from the victim and witnesses were prepared and collected. These attachments may be or may not be attached in the report; these should be kept in a safe files. These attachments should be listed and described in the report.

Likewise, evidences collected and have to be used in the court proceedings will no longer be kept by the investigator because it will become a property of the court. To include in the report, this should listed and described in the report.

8. Completing the Data

What have been discussed are steps that result in general divisions of information. Once the organization of the information has been set up, what remains to be done is to complete the information per division. For instance, to complete the profile of each victim, there is a need to compile data on the name, address, birth date, civil status, etc.

To determine how complete is the information gathered may be difficult, but one should be able to produce proof to back up a claim of violations.

6. PHOTO-DOCUMENTATION

1. Photo-documentation as Evidence

Photographs are helpful source of information and also as evidence.

The following can be photographed:

- victim (whole body and marks of injuries);
- objects directly or indirectly used in the act;
- places where the acts were committed.

For the photographs to have a good quality, the investigator, as the photographer, must have a good knowledge on photography and uses and good camera. Most professional photographers use a manual/automatic SLR camera because you can manipulate the controls of the camera to produce the desired photographs.

Photographs should include a form with the victim's name, the date and time the photographs were taken. The form should also contain a remarks section that includes case notes. If the photographs are about body injuries, outline drawings of the child's body are also helpful to show the specific areas that were photographed.

Photographs must be properly verified and relevant to the case so that:

The photographer or investigator can testify in court that the pictures accurately portray the findings and can explain how the photographs were taken.

A health professional who examined the child (other than the photographer) can verify in court that the photographs accurately represent the findings.

2. Methods for Photographing Victims of Sexual Abuse

Prior to photographing the child and the injuries, the investigator should prepare an identification sheet and/or taking a full-face picture of the child that also displays the child's name. Separate rolls of film should be used for each case to avoid losing or mixing up evidence. It is helpful to place an identifying sign, including name or initials, date of birth, date and time of photographs, case number, and the photographer's name or initials, in front of the victim's injury for each picture.

In photographing the child victim, the following approach should be considered:

- Photograph the child in the presence of a close or trusted relative or guardian.
- Inform the child of what will be involved in taking the pictures.
- Remember to consider the child's level of development when speaking to him or her.
- Do not make quick moves toward the child, as these may be frightening.
- Make eye contact with the child to make him or her feel more comfortable.
- Keep a supply of toys or colouring books as a reward for being helpful.
- Allow time for the child to become accustomed to the photographer before being photographed. Do not surprise the child. Tell him or her what parts of the body need to be photographed.
- Let the child undress himself or herself or have the parent or guardian help.
- Photograph sexual organs, including an overall view and close-ups of the injury. This may require that the labia (vaginal lips) be spread apart for closer photography or that the child kneel down on all four limbs to allow the anus to be photographed.
- In general, photographing a sexual abuse injury is best done by a medical specialist in the field of child abuse, with appropriate equipment such as a "colposcope". This equipment is used for examination of the vagina and neck of the womb.

Other injuries should be photographed also, such as:

- Punctures, slashes, rope burns, or pressure injuries
- Bite marks (forensic bite mark photography is a specialized field of medical photography and is interpreted best by forensic dentist or pathologist)
- Bruises (a child may show evidence of having old and new bruises as evidence of repeated abuse)
- Burns (if possible, take pictures from all angles before, especially any creams or oils are applied, and after treatment)
- Facial injuries (If inside the mouth, use a tongue depressor to keep the mouth open and the injury visible. If there is an eye injury, use a pocket flashlight or something to

distract the child's eye to look at different directions to show the extent of the damage to the eye area.)

- Amputation (photograph the dismembered part alone and then in relation to the body as a whole)
- When there is suspected child neglect, the child's general appearance should be photographed, including any signs such as splinters in the soles of the feet, hair loss, extreme diaper rash, wrinkled or wasted buttocks, prominent ribs, and/or a swollen belly.

3. Tips for Photographing a Injuries

- Photograph the injury with the landmark (elbow, knee, belly button, or other body part that identifies the location of the wound).
- Take two pictures of each wound or other injury — one that identifies a landmark and one that provides a close-up (fills the film frame) of the wound.
- Position the camera so that the film surface or plane is parallel to or directly facing the injury.
- If using an automatic or instamatic camera, vary the perspective of the picture by taking various shots from different angles and distances. The flash of the camera may produce unpredictable reflections and loss of colour definition. If using a manual SLR cameras, take pictures with varying lens aperture or opening (“f-stop”) if uncertain with correct light exposures to ensure proper colour balance and brightness when documenting victims with very light or very dark skin tones.
- Place a measuring device such as an adhesive metric scale directly above or below the injury to ensure accurate representation of the size and depth of the injury. A standardized colour bar may be placed in the photographic plane for comparison with the colour of the injury. This ensures that if colour is distorted in the film developing process, adequate colour comparisons can still be made.

Module 4 - Child Interview

1. INTRODUCTION

Interviewing child victims and witnesses of sexual abuse is not an easy task for an NGO investigator, especially those who are not professionally trained to deal with children's developmental problems. Aside from having sufficient knowledge and understanding of the psychological development of a child, one has to learn interviewing techniques to be able to prevent trauma and stigmatisation of the victim.

At any rate, professionals in many countries are developing new techniques of interviewing child victim / witness:

- which are sensitive to the child's developmental abilities;
- enhance the accurateness and reliability of information;
- analyse the needs of the child to be able to provide effective psychosocial assistance.

This module discusses some ideas on interviewing child victims/witnesses based on experiences on investigation of other cases and some procedures undertaken by other countries. Approaches in interviewing seemed to vary according to the traditional social and religious beliefs and psychosocial development context of each country.

2. CHILD INTERVIEW TECHNIQUES

1. Use of Interview Specialists

It is advisable that an "interview specialists" or well-trained and experienced forensic interviewer should be the one to conduct the investigation. These medical professionals also conduct physical examination of the child at the time of the interview and can detect evidence of abuse that the child may have failed to report, and can testify about physical evidence of abuse at later court hearings.

2. Interviewer's Disposition

Before the interview, the investigator must carefully examine his or her own emotions and possible biases regarding child sexual abuse and children who alleged sexual abuses. This is necessary to prevent unwitting projection of those biases into the assessment of the child's allegations. The interviewer must show physical and express his/her affection, love and confidence to the child. It is important that the child believe that you are sympathetic, understanding, supportive and optimistic so that he or she will feel comfortable in making disclosures and in discussing feelings.

3. Joint Interview

Joint interview or team investigation is also advisable for interviewing the child. A team of investigator and child protection/care worker may decide in advance who will ask the questions while the other takes notes and follows up with questions that his/her investigation requires.

4. Recording the Interview

The interview and child's behavioural responses should be recorded, preferably by videotape, or by audiotape with detailed notes. The videotaped interview is of great use to the court as it preserves the child's testimony from a time where the child's memory of the abuse will be clearer because it is more recent.

5. Place of the Interview

To respect the child's privacy, the interview should be conducted in a more informal and relaxed setting so that the child will be under less stress. It should be a place where the interview will not be disturbed by passing persons. Be careful not to discuss the incident in front of people who do not need to know what happened.

6. Communicating in the Language of Children

It is important to use short questions, simple sentence construction, and simple words consistent to the child's development abilities to enhance communication with a child. For example, a pre-school age child's understanding of time is very different from that of an adult's. Instead of asking "when," ask whether an event occurred before or after a special holiday, before or after a favourite television program, or during the day, or at night, or depending how the child describe time at his/her age.

7. Use of Tools and Props

Tools and props such as anatomically detailed dolls, puppets, or human figure drawings may be useful when interviewing children under age 5 or older children who have the difficulty to communicate verbally. While this is a helpful instrument to facilitate disclosure of child victims, it is not always advisable to use such tools. The investigator should be sensitive enough to decide whether to use these tools or not.

8. Explaining About the Interview

To prepare the children be informative during the interview, the investigators should:

- introduce themselves before the interview and build rapport with the child;
- explain the purpose of the interview and let the child feel assured that he/she is being taken cared of and protect him/her from any harm;
- explain that it is acceptable to tell the interviewer they don't know the answer to a question;
- explain to children that they should correct the interviewer if he or she is mistaken;
- provide children with practice responding to open ended prompts when describing their experiences.

9. Use of Questions

The best way to interview a child is to use open-ended questions and rely on asking to recall what happened to them. For example, an open-ended questions, like "What did you do this morning?" This is in contrast to questions, like "Did you eat breakfast this morning?" The person who was asked if he had breakfast that morning might reply that he had eaten his/her breakfast, even if he hadn't, because this is what he usually does, rather than what he actually

did that morning. The greatest accuracy is obtained by eliciting a free narrative from the child in response to open-ended questions.

These two types of questions are what researchers and scientists called as the recall memory and recognition memory techniques. Recall memory technique is sometimes called forensic interviewing. Forensic interviewing is a non-leading interview conducted with a victim to obtain the history and details of the alleged abuse in “free recall.” It is best to allow the child victims to provide spontaneous narratives at their own pace without interruptions and specific questioning. The child victim should never be made to feel like they did something wrong or that the abuse was their fault. The most important aspect of forensic interviewing is providing a safe, comfortable environment for the child victim/s. Interviewers must communicate to children the importance of providing complete, detailed, and accurate accounts of their experiences.

The interviewer should assume that the more open-ended the question, the greater confidence he/she should have in the child's responses. However, some information requires another type of questioning, which can be inevitably used to get or clarify information from the child. The following are five types of questions, from most open-ended to most close-ended, which can be used by the interviewer. These types of questions are as follows:

- general questions,
- focused questions,
- multiple-choice questions,
- yes-no questions, and
- leading questions.

General Questions

General questions are frequently used as opening questions for assessment or treatment. For example, if a victim comes to an NGO, the investigator might begin by asking, “Tell why you came to see me today.” The question is likely to elicit an account of incident the victim encountered.

With adolescent children, general questions often produce some information on sexual exploitation and abuse. But for young children, general questions are less useful. Typical responses from them are, “No,” or “I don’t remember”. Young children may acknowledge that they know why they are being interviewed but don’t want to talk about it.

Focused Questions

There are three types of focused questions:

- questions focused on people,
- questions focused on the circumstances of the abuse, and
- questions focused on body parts.

Questions focused on persons. These are questions related to the information about the alleged offender. It is a good strategy to begin by asking questions that will not be difficult. Thus, focused questions might first be asked about brothers and sisters, close relatives, then about the mother, and finally about the alleged offender.

- “Where do your Uncle and Auntie live?”
- “Did they ask you to do something for them?”

Questions focused on circumstances of the abuse. There are two types of focused questions about the possible circumstances of the sexual exploitation and abuse that many interviewers use.

- “Are there any secrets in your family?” or “Do you have any secrets to tell?” These questions are commonly used because often children are told that what they did or are doing related to sex are secrets that should not be told to any.
- “Do you ever play games with older persons in the room?” This question is used if offenders induced a child that the victimization is only a game.

Questions that focus on body parts. These questions are used to determine the child’s knowledge of body parts, especially sexual parts. For example, the interviewer might ask the following questions with regard to the penis:

- “Did you ever see anybody’s (penis)?”
- “Whose did you see?”
- “What does a (penis) do?”
- “Does it do anything else?”

Or, if the interviewer might ask questions about the female victim about the vagina:

- “Did you ever see anyone else’s (vagina)?”
- “Did anyone ever ask you to touch their (vagina)?”
- “Did anything ever happen to your (vagina) that you didn’t like?”
- “Does it ever hurt?”
- “What makes it hurt?”
- “Does anyone ever touch it?”
- “When does he touch it?”

In some cases or at certain points during an interview, children may not respond to focused questions, or they may reply, “I don’t know,” or “I don’t remember.” In these cases, more directive questions are necessary.

Multiple-Choice Questions

The interviewer may resort to this type of question if he/she can get information using other types of questions. However, this type of question has some weaknesses:

- young children will have more difficulty if more options are given;
- a correct response must be included in the options, so that the child is not given the choice of two or more incorrect choices;
- limit the question to the circumstances of the abuse or exploitation, if possible, not the abuse or exploitation itself.

For example: “Was it one of your friends or someone else with you?”

“Do you remember if you were wearing your day clothes or your night clothes?”

Avoid asking: “Was it your dad, stepfather, or uncle who touched your (vagina)?”

Yes-No Questions

This question is answerable with “yes” or “no” answers. The problem with this question is that the child sometimes chooses which one is desirable or the child doesn’t know the answer but nevertheless answer yes. Yes-no questions usually identify both the alleged offender and

the sexual acts in question. For example: “Did he put his finger in your (vagina)?” or “Was it your stepfather who made your (vagina) bleed?”

Leading Questions

Leading questions are commonly used during cross-examination in court, which are used to elicit desired answers. This type of question is not appropriate in interviewing children. This question may be perceived as coercive because it convey the interviewer’s own view of events and it may influence the children’s interpretations of events. For example: “The foreigner guy sucked your (penis), didn’t he?” or “Isn’t true that your Auntie forced you to sleep with someone you don’t know?”

Strategic Use of Questions

The interviewer should use as many open-ended questions as much as possible and not only resort to focused questions, yes-no questions, or multiple-choice questions. When information is elicited in response to, for example, multiple-choice question, the interviewer then turns to a more open-ended questions, or perhaps use a focused question

The following series of questions is an example:

- Interviewer: “Where was your mother when it happened?” (a focused question)
 - Child does not reply.
- Interviewer: “Where your mother was there or not?” (a multiple-choice question).
 - Child replies that her mother was there.
- Interviewer: "What was she doing?" (a focused question)
 - Child: "She was talking to the person."
- Interviewer: “Do you know this person?” (a yes-no question)
 - Child says yes.

CHILD INTERVIEW GUIDELINES

Step 1: Preparatory steps

- Introduce yourself to the child: your organization, your position in the organization, some background of yourself
- Explain the purpose of the interview:
 - What will happen after the interview
 - What actions to be taken after the interview
- Assess the child’s feelings and discuss about it to make him/her at ease and relax
- Ask the child’s comments about the purpose of the interview:
 - Is he/she willing to tell information about what happened to him/her?
 - Does he/she has problems in telling the information to the interviewer?

Step 2: Interview proper

- Start with general, open-ended questions
- Follow-up questions with various types of questions

Step 3: Review the case

- Summarize the case to the child to make sure you get the correct information
- Ask the child if there are information not correct or lacking
- Ask the child if he/she wants to add more information

Step 4: Assess child's feelings

- How does the child feel about the interview? Make sure the child feels normal after some emotional feelings during the interview, if any.

Step 5: Conclusion

- Explain if any action is to be undertaken by the interviewer or his/her NGO.
- Ask the child's agreement to any actions planned. If a child cannot make a decision on this matter, explain that you will consult the child's caretaker and the child can express his/her opinion to his/her caretaker.
- Express thanks to the child for his/her cooperation
- Give some presents, or any expression of gratitude to the child

3. ASSESSING THE INFORMATION ON SEXUAL EXPLOITATION AND ABUSE

Once information have been gathered from the child interview and other sources, the NGO investigator should study these information and make his/her opinion whether the child was sexually abused or exploited. NGO investigators must not only rely on positive responses to one or two questions but should combine also the descriptive detail and emotional content.

1. Criteria for Substantiating Sexual Exploitation and Sexual Abuse

There are three general categories of information that should be assessed in the child's statements and/or behaviour:

- a) a description (either verbal or behavioural) of the sexual exploitation and abuse;
- b) information about the context of the sexual exploitation and abuse; and
- c) an emotional reaction consistent with the behaviour being described, the child's functioning, and the circumstances of the interview.

a) A Description of the Sexual Exploitation and Abuse

In assessing the child's description of the sexual activity, the interviewer is looking for:

- sexual knowledge beyond that expected for the child's developmental stage;
- an account consistent with a child's perspective; and
- an explicit description of the sexual acts.

Advanced sexual knowledge and a child's perspective are, of course, more persuasive findings with younger children. An explicit account is relevant for children of all ages.

b) Information About the Context of the Sexual Exploitation and Abuse

Information about the context of the sexual abuse might include:

- where it happened;
- when it happened;
- where other people in the family were;
- what the offender might have said to involve the child;
- what the victim and offender were wearing and what clothing was removed;
- frequency and/or duration of the abuse or exploitation;
- whether the offender said anything about telling or not telling;
- whom did the child tell and that the response of the person.

The child may have been sexually abused many times and, therefore, may not remember details about all instances. It is best to ask the child to tell about the last time in order to obtain contextual information. If the child gave at least three pieces of contextual information, it can be considered that the child has provided sufficient contextual information.

c) An Emotional Reaction Consistent With the Exploitation and Abuse Being Described

Children may have a variety of emotional reactions to sexual abuse, depending on the characteristics of the child and the abuse. The following are common emotional reactions and associated child or abuse characteristics:

- reluctance to disclose: characteristic of most children except possibly for very disturbed or very young children;
- embarrassment: a rather mild response often found in disturbed and young children;
- anger: more characteristic of boy victims (but not always evident);
- anxiety: noted frequently in adolescent girls;
- disgust: a typical reaction to oral sex;
- depression: often present in victims who care for the abuser or feel they are responsible;
- fear: typical of cases in which the child has been injured or threatened during the course of the victimization; and
- sexual arousal: another response sometimes found in disturbed and young children.

2. Criteria for Confirming an Allegation From Other Sources

There are other sources of information that can support a finding of child sexual exploitation and abuse.

a) Suspect's Confession

The most convincing information is the confession of the suspect. Unfortunately this is not common, particularly at the point of investigation, when the alleged offender may be very frightened and concerned primarily with his own well-being.

The offender may make a full or partial confession. It is a full confession if the alleged offender admits to all or more sexual activity described by the child. It is a partial confession if the suspect may make "incriminating" statements by admitting to some but not all of the child's allegations. Usually, offenders deny acts which involves heavier penalties or when it is very shameful, and they only admit minimal behaviour like "just touching".

IN some cases, the alleged offender admits to the behaviour but says it was not intended to be abuse or exploit the child. There are actually two types of cases that fall within this category:

- those in which the suspect says the mistake was on his part, example: "I was drunk and I thought the girl sleeping besides me was my girlfriend."
- and those in which he insists his behaviour has been misinterpreted. Example: "I was only trying to help these young children by giving them money and they become very close to me."

The interviewer/investigator must use common sense in assessing if the explanations of the alleged offender are likely and feasible.

b) Medical Evidence

There has been considerable progress in the documentation of physical findings from sexual abuse. These findings are provided by medical doctors using various techniques and equipments. This information is documented in their medical report. Some of these medical findings are:

- highest probability indicators are ones identified over 10 years ago. They are:
 - pregnancy in a child and venereal disease in a child.
- Venereal disease may be located in the mucosa of the vagina, penis, anus, or mouth.
- Genital findings (higher probability):
 - semen in the vagina of a child,
 - torn or missing hymen,
 - other vaginal injury or scarring,
 - vaginal opening greater than 5 mm, and
 - injury to the penis or scrotum.
- Anal findings (high-probability):
 - destruction of the anal sphincter (ring of muscle surrounding the opening),
 - bruising or abrasion of perianal (outer part of the anal),
 - shortening or eversion of the anal canal,
 - fissures to the anal opening,
 - funnelling (widening).
- Oral findings. (Generally oral sex leaves little physical evidence.):
 - injury to the palate or
 - pharyngeal gonorrhoea.

c) Other Physical Evidence

In some cases, the police and sometimes others will have obtained physical evidence such as:

- blood-stained girl's clothes or underwear;
- pornography materials and equipments;
- sex instruments or toys;

d) Eyewitnesses

Eyewitnesses to sexual abuse are very rare. These may be children who were also abused or who observed the abuse. There may be also adult witnesses, sometimes the spouse of the offender, relatives or workers of the offenders.

Module 5 -- Investigation, Recovery and Assistance Coordination Procedures

1. INTRODUCTION

This module discusses suggestions for coordination procedures of the NGOs with law enforcement / government agencies in terms of investigation, recovery/rescue operations, and providing assistance to child victims.

The discussion in this module is not exhaustive at the moment and offers only some ideas which the NGOs can start to work on and plan out how to discuss this coordination procedures with the law enforcement and concerned government agencies.

2. ROLE OF NGOS IN INVESTIGATING CSEC AND CHILD SEXUAL ABUSE CASES

Investigation of CSEC and child sexual abuse cases is primarily the function of the judiciary police. However, NGOs concerned or working on issues related to children may also include in their mandate to conduct investigation. The nature of investigation of the NGO in these cases is similar to the police investigation which is to bring the offenders to the court of justice, and also to provide assistance to the victims. In principle, the NGOs cannot overtake or replace the police in conducting investigation on these crimes. What then should be the NGOs role in the investigation?

The following section proposes some areas where NGOs can contribute in the effective and efficient investigation of CSEC and Child Sexual Abuse.

1. Reception and Processing of Complaints

Many NGOs working on children and women issues have been doing already this nature of activities as part of their monitoring and investigation procedures. Most of these NGOs describe in their reports that women and child victims of sexual exploitation and abuse do not immediately report their case to the police or prosecutor for many reasons. Some of the reasons are: lack of trust in the police or court to resolve cases justly; and fear of the victims and their family of social stigmatisation.

Reception and processing is an initial step in the investigation, which the NGOs may perform similar to the police or court. However, this has to be exercised by the NGO with extreme caution and safety measures, not only for the victims but also for the NGO itself against retaliation from offenders, especially the organized syndicate.

The following are some suggestion on what to do in this area:

- Set up telephone hotlines. Policies and procedures for entertaining telephone calls should be established, which includes:
 - recording the identity of the caller, including confidential informant;
 - the format discussed below may be used for complaint recording;

- Establish security system procedures. For example, criteria of the persons who will be allowed to file the complaints should be defined and people other than these will not be entertained but will be advised to bring the ones that fit in to the criteria.
- Establish a standard format for complaint recording. This form should be marked confidential. The format should include:
 - name of the complainants, including those who accompanied the complainant;
 - victims (sometimes the victims are the complainant);
 - nature of the complaint (which should indicate the type of CSEC / Child Sexual Abuse);
 - description of the case/s: a brief description of the incidents and places;
 - names and addresses of people involved in the complaints: offenders/traffickers, witnesses, and other persons who may have knowledge on the case.
- Establish communication lines with special police team (if already formed), partner NGOs, working groups/coalition, government agencies. With this communication line, NGO investigators automatically uses these lines to alert or call for action, either individually or as team.

After receiving complaints, the NGO may:

- Undertake immediate actions when the complaint is urgent, as describe in section Quick Response Procedures.
- Submit personally the documents to the police to check the information and discuss appropriate actions. The police may need to verify the information by conducting their own investigation; or may accept and submit the reports to the prosecutor's office for appropriate legal actions.
- The NGO investigator/s may initiate to call for a meeting (urgent or through the schedule set by the coalition group) to discuss the complaint/s filed in their office.

2. Quick Response Procedures

If the complaint is urgent, which means that the life of the victims is at stake and something need to be done immediately, such as trafficking in progress, either reported personally or through the hotline, quick response must be immediately done by:

- The NGO investigator/s (in consultation with his/her superiors, if required) to immediately refer the complaint to the special police team using the established communication line. In this situation, the NGO investigator should exercise utmost concern on details of the complaints and sound judgment of the case to prevent mistakes on the part of the government agencies who will execute any response to the complaint;
Or,
- The NGO investigator/s (in consultation with his/her superiors, if required), to immediately reply to the complaint by proceeding to the place and make verification, by any means. If confirmed, immediately report to the special police team and other partner groups, if necessary.

3. Investigation and Documentation

If the complaint is not urgent, such as cases that happened already, it is not necessary to report immediately the complaints to the police and concerned authorities. The following are some of these activities that can be done:

- Interview and prepare sworn statements from the victims and witnesses present during the filing of complaints;
- Conduct field investigation and conduct interviews with people mentioned in the complaints;
- Collect or prepare documentary evidences, and other physical evidences;
- Conduct photo-documentation to victims and places;
- Conduct surveillance and covert investigations in areas identified in the complaints to verify the allegations and gather more information to support the allegation.

4. Community Networking

Incidents occur in the community, and the people in the community are the first one to know these incidents. When people know the incidents, by word of mouth it reaches different people: media, police, government agencies, and NGOs operating in the communities. And the media is usually the one who publicize these incidents whom they gather information from the people in the community or from the police.

This is an indication that the people in the community are very important in monitoring or knowing what is happening in the community. By tapping this resource for the purpose of investigating CSEC and Child Sexual Abuse cases are brought to the open and appropriate legal actions are undertaken.

- NGO investigators, or their programs working or providing services in the community may include in their activities distributing information, such as leaflets or cards, on how and where to report if they witness or hear cases of CSEC and Child Sexual Abuse cases.
- The NGOs should establish network with individuals in the community where they operate through their different programs. These individuals may come from local organizations, local government officials, international and national NGOs outreach programs, and community residents.
- Community networks should be strengthened in areas that require priority attention, for example in areas believed to be a trafficking route, or some brothel areas believed to be a dropping points for trafficked children, or areas frequented by sex tourists.

3. CHILD RECOVERY OR RESCUE OPERATION

Child recovery operation is the taking back or rescuing of the child who may be:

- kidnapped / trafficked for prostitution;
- who are confined by pimps or brothel owners for forced sexual services;

This operation is exclusively the task of the law enforcement agencies. While it is possible for a civilian group to undertake this kind operation, the chances for success is very slim and

it is extremely risky. The following are the suggested procedures in conducting a coordinated recovery and rescue operation between the law enforcement and NGOs.

1. Coordination Procedures with Authorities

For an NGO engage in recovering the child from sex trafficking and forced prostitution, proper coordination with law enforcement is very necessary. Child recovery operation protocol may be agreed by the law enforcement agencies and the NGOs to undertake this operation smoothly and legally.

The protocol and coordination mechanisms can be based from previous experiences by the concerned NGOs and law enforcement agencies in rescuing reported victims. For example, when a woman complained to the Cambodian Women Crisis Centre that her daughter was tricked into prostitution in a massage parlour, CWCC conducted an initial investigation into the reported place and confirmed the complaint of the woman. CWCC then reported to the criminal police chief who immediately organized a group of police to rescue the victim. The lady was recovered but the owner was not arrested due to some protection from high ranking officials.

Based on this experience, and many more from other similar NGOs, child recovery operation can be pursued legally. Recently, the government has created the Department of Juvenile Protection and Anti-Human Trafficking (a merger of the Bureau of Juvenile Protection and the Bureau of Human Trafficking) and set up nation-wide to step up their efforts in combating sex trafficking and forced prostitution.

As discussed in the previous section, the NGOs:

- receive complaints of cases related to CSEC and child sexual abuse;
- conduct initial investigation to verify the complaint and gather basic information about the victim and perpetrators;
- discuss with the law enforcement officers, in coordination with other partner NGOs, to plan out rescue operations.

For urgent cases, such as sex trafficking in progress, Quick Response Procedures (explained above) may be undertaken by NGOs.

2. Recovery and Rescue Operation Protocols

To ensure proper coordination and collaboration with law enforcement agencies, a written protocol may be developed for a coordinated approach to child recovery operation. These protocols may include:

1. Statement of purpose and articulation of joint missions

Example:

- To insure the safety of children.
- To hold offenders accountable.
- To prevent trauma to the child.
- To maintain open communication and coordination among law enforcement, child protection agencies and NGOs
- To provide the family with needed services.

2. Types of cases covered (for example, sex trafficking, child prostitution, pornography, etc.)

3. Procedure for removal of the child from the trafficker's home or prostitution place
4. Procedures for arrest of suspects.
5. Procedure for surveillance.
6. Provisions for joint training.
7. Procedures for cooperation and coordination among law enforcement agencies and NGOs
8. Provision for regularly evaluating the effectiveness of the protocol and modifying it as needed.

4. ASSISTANCE TO CHILD VICTIMS AFTER RECOVERY

The basic issues for the child are safety and rehabilitation. The use of courts to protect the child and prosecute the offender impinge heavily on the child's well being.

- If the offender is with the family, issues about family separation should be seriously considered. There cases in which, to protect the child, to prevent her/his psychological abuse, the child needs to be placed outside the family.
- If the family has been separated, the question of family reunification has to be addressed.

There are two basic strategies that can enhance the probability that case decisions will be made in the child's best interest.

- First: The child should be asked what she/he wants.
- Second: Case decisions should be preceded by a careful assessment and should be made in consultation with a multidisciplinary team, whenever feasible.

The assistance to be given should basically be provided by the government agencies with such mandate. The NGOs facilitate the assistance in situations where the victims are not given attention by the government or the victims prefer to approach NGOs rather than the government.

The following are some of the possible assistance that should be provided to child victims of sexual exploitation and abuse after recovery or rescue, either by the NGOs or government agencies.

1. Temporary / Emergency Shelter

Normally, when a child is recovered from his/her kidnapper/trafficker or brothel he/she needs a place where he/she can stay relaxed and free from dangers. Putting him/her in police custody in a police outpost or station may not be good for the child. He/she should be put in a place that creates a home-like environment.

2. Medical Treatment

Medical treatment should be conducted at once right after the recovery. Competent doctor, especially those recognized by the court, should be the one to conduct the medical examination and treatment. A medical certificate should be prepared and kept for future judicial recourse.

3. Psychological and Physical Therapy

Depending on the risk assessment made, psychological and physical treatment should be undertaken by the NGO or childcare centres. This treatment should aim at reducing the emotional and psychological impact of the abuse to the child; ensure that the child victim physically recovered and free from diseases cause by the abuse; restore the normal capacity of the child to live with his/her natural family and society.

4. Reintegration with the Family and Society

The aim of providing immediate assistance to the child victim is for him/her to be able to reintegrate with his/her family or in the society.

If the child has a family, the NGO or care centre can facilitate in tracing the child's family and assess the family for a possible reintegration. Counselling and income support may be needed by poor families. If he has no more immediate family, he/she can be integrated to the next closes family or his/her extended family.

If the child has no more families, the NGO or care centre may provide a foster family for the child through adoption or temporary adoption.

If the child is older enough and decide to live independently, the NGO or care centre may facilitate to find a safe place for the child to live where he/she can find something to support for her/his living. It would be safe for him/her to live in a place where he/she knows the people, especially in his/her birthplace or family place.

If the child has no family and he/she is not yet capable to live independently, the child can be referred to a group homes or childcare centre like orphanage.