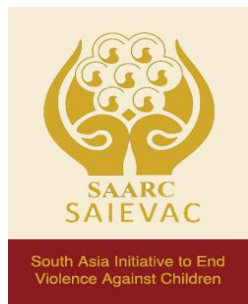


**9th SAARC CHIEF JUSTICES' CONFERENCE
&
12th SAARCLAW CONFERENCE
ON
CHILD PROTECTION and CONSTITUTIONALISM
*"Securing the Future"***



24th – 26th May 2013

**Convention Centre
Thimphu, Bhutan**



Background Note

Introduction and Background

Conscious that children, and the way that they are cared for and treated, are incredibly accurate reflections of our values and nature and in fact our own humanity, Rabindranath Tagore has highlighted that “*every child born into the world brings a message from God that he is not yet discouraged with man*” and that we can continue to learn from and improve upon our on-going practices. Because of the importance of children for both our future and the development of a more democratic society, the Judiciary of Bhutan and SAARCLAW Bhutan Chapter have agreed to join in partnership with the South Asia Initiative to End Violence Against Children (SAIEVAC) in order to take stock of both progress and achievements while at the same time identify areas which require additional attention and focus while jointly exploring issues related to child protection, the development of and commitments articulated within national constitutions, activation of citizens in the election process, and the roles and responsibilities of judiciary as duty-bearers facilitating the process.

Building on the foundation established at the 2012 SAARCLAW Seminar, “Securing Access to Justice in the Enforcement of Human Rights”, where SAIEVAC was also presented a “Special Session”, the joining together of these two important events creates an important and useful opportunity to explore critical issues and renew commitment in taking action to further strengthen legislative mechanisms, generate awareness in terms of activating multiple stakeholders as part of the democratic process and assess progress and continued challenges related to child protection dimensions. The SAARC legal fraternity must play a major role in achieving social and distributive justice in South Asia. Discussion and debate arising around the topics highlighted above will explore historical, cultural and socio-economic benefits or capital that are of significance in the region and can also be applied to the context of constitutionalism and children. Additionally, a “constitutional common sense” must also be created which could serve as a valuable resource for achieving greater success – through engagement of society and partners on multiple levels - a mutually advantageous integration which promotes democracy, strengthens citizen participation and provides care and protection for children across the wider SAARC region.

Inclusion of a Child Protection Focus

Working to protect children is something which cannot be done in isolation or by one government division or agency on its own. It instead requires a multi-sectoral, multi-disciplinary approach which involves a wide range of stakeholders including government, multi-lateral agencies, donors, communities, caregivers, families and – very importantly – children themselves.

SAIEVAC was established in 2005 as the “South Asia Forum” based on regional follow-up to the UN Violence Against Children Study. In 2010, following further commitment from all regional governments became the SAARC Apex Body for Children and was given a its new name along

with the Regional Secretariat shifting from Pakistan to Nepal. SAIEVAC is a unique regional initiative led by the governments of South Asia in partnership with children, civil society organizations, INGOs, UN agencies. Along with raising awareness, developing capacities, implementing activities and sharing best practices in preventing and responding to children across the region it also aims to support a cooperative approach and further strengthens or builds both national and regional level coalitions and partnerships in order to achieve the following aims:

- To ensure the realization of children's rights as stated in the UNCRC and its Optional Protocols;
- To prevent and respond to all forms of neglect, abuse, exploitation and violence against children in all settings;
- To promote the adoption, implementation, and monitoring of integrated national strategies with adequate budgets and resource allocation to prevent and protect children from violence and ensure response; and,
- To reinforce regional cooperation to end violence against children in South Asia.

SAIEVAC has also hosted two Technical Consultations in the region, in 2011 on Care Standards and Child Friendly Services, which took place in Kathmandu and on the UN Study on Violence Against Children Follow-Up Actions in 2012 hosted by Sri Lanka. Recommendations endorsed at the SAIEVAC 3rd Governing Board meeting have placed addressing Traditional Practices Harmful for Children at center stage for this year's meeting scheduled for September in New Delhi, India. Focus will be maintained and Child / Early Marriage and Corporal Punishment as significant progress has been made in these areas while also allowing for discussion to expand more widely in order to address other pressing concerns and to identify a range of other harmful practices which are also prevalent in South Asia.

It is envisioned that discussions and actions identified at the joint SAARCLAW and SAIEVAC meeting – along with input from the SAARCLAW Chief Justices' conference – will also contribute to analysis and development of action points and recommendations for the upcoming Technical Consultation.

Recognizing the many benefits and synergy which comes from a joint approach, **SAARCLAW** and **SAIEVAC** have agreed - as much as appropriate and possible - to jointly work together in order to achieve the following aims:

- Help the Member States strive towards the goal of Ending Violence Against Children based on the Strategies outlined in the SAIEVAC 2011-2016 Work-plan; and
- Promote mutual learning and cross fertilization among countries to effectively tackle the challenges relating to ending violence against children through enabling legal reform.

In addition and as part of mutual cooperation in support of the goals outlined above, SAARCLAW and SAIEVAC shall:

- Inform each other of on-going or planned initiatives related to ending violence against children through enabling legal reform and define an annual framework of cooperation, ahead of each year;
- Continue to actively cooperate on legal reform within the larger context of the SAARCLAW and SAIEVAC work-plans and the actualization of commitments relating to promotion and protection of the rights of children as set forth in the SAARC Conventions and successive SAARC Declarations;
- Exchange on a systematic basis, analytical reports, technical publications and other documentation relevant to ending violence against children;
- Promote mutual learning, collective analysis and cross-regional collaboration on areas related to the implementation of the SAIEVAC 5 Year work-plan and the SAARCLAW mission and objectives;
- Meet on a regular basis as agreed for the purpose of coordination, information exchange and review of cooperation activities as set out under this Memorandum of Cooperation.

This Year's SAARCLAW- SAIEVAC and Chief Justices' Conference

The Judiciary of Bhutan and the SAARCLAW Bhutan Chapter has the pleasure of hosting this year's 9th SAARC Chief Justices' Conference and the 12th SAARCLAW Conference in collaboration with SAIEVAC which will take place over three days. Working sessions scheduled as part of the second and third day will include concurrent sessions from which participants can choose to attend addressing a variety of topics and specific themes. The Chief Justices' Conference will also take place at the same time and it is anticipated that findings and key recommendations will be exchanged and further explored through alignment of both events further strengthening engagement and support. Building upon the vast repository of knowledge, expertise and experiences, as highlighted earlier, the proposed topics are related to democracy, constitution and rule of law in the contemporary SAARC societies considering the pervasive changing values that includes both structural and institutional aspects.

Structure and Format of the Program

Recognizing the synergy and additional advantages which can come from SAARCLAW and SAIEVAC co-hosting the event, the following program schedule and format will be used to organize the conference event:

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| Day 1 - Friday, 24 th May: | Registration of participants, Inaugural Program
Welcome Reception |
| Day 2 - Saturday, 25 th May: | Morning Working Sessions and Afternoon
Concurrent Sessions |

Day 3 - Sunday, 26th May: Concurrent Working Sessions and late afternoon Closing Ceremony

Participants for the SAARCLAW / SAIEVAC meeting will include:

- SAARCLAW participants (and law students) from across the region;
- SAIEVAC partners and staff;
- Partner agencies (especially in support of technical sessions).

Thematic focus for conference days will include mapping of current or existing legal provisions related to child protection and recommendations for reforms related to this, exploring democracy and constitutions within the South Asian context, constitutional guarantees / commitments to the children of SAARC and judicial action as follow-up support related to child sexual abuse / exploitation, child labor and child marriage. In addition, working sessions will allow for discussion on the importance of written constitutions – including the role of the Supreme Court as an arbiter - and elections and stimulating voter engagement and controversies, resolutions and experiences around Superior Judiciary appointment.

A special focus will be given to regional activities addressing the rights of missing children and Missing Child Alert (MCA). Technical presentations from SAIEVAC partners will include progress on regional trafficking and cross-border issues along with Child Help Lines / Missing Child Alert.

In addition, a display table for additional reports, documents, and poster-boards illustrating various initiatives will be set up for participant use in order to further promote cross-country learning and exchange. Participants from countries are encouraged to bring materials or send publications related to thematic topics highlighted above (especially around child protection and legal dimensions) for use in this way.

Overall goal of the joint SAARCLAW / SAIEVAC Conference:

The conference will provide an opportunity to further strengthen linkages between partners (e.g. SAARCLAW, SAIEVAC and Chief Justices) and generate additional actions to create greater momentum in working together to address legal dimensions and reform – as well as stimulate greater involvement of both government and judiciary – in democratic processes, strengthening judiciary and legal systems and in protecting children of the South Asia region.

The SAIEVAC Technical Sessions will be addressed within the framework of Legal Reform and Regional Action for Child Protection and the sessions also focus on all the SAIEVAC thematic areas.

Specific Objectives for SAIEVAC sessions will include:

- *Strengthen SAARC Regional Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (despite now reaching the SAARC Home Min level at this point in time - SAIEVAC and SAARC Law have a legitimate role in influencing the way this is being structured);*

- *Strengthen Regional / Trilateral linkages of state service providers on the issue of repatriation and reintegration of traffic victims (this has been improved but remains static and not put to practice – need to work to operationalize this);*
- *Strengthen institutional capacity of the SAIEVAC Secretariat to achieve mission and goals through implementation of the work-plan with key partners.*

Key Outcomes from the Conference:

- *Mapping of current/existing legal provisions related to child protection in order to identify gaps and challenges and strategies to address;*
- *Overview and update on Sexual Abuse and Exploitation, Trafficking/Missing Child Alert provided to SAARCLAW participants;*
- *Existing legal frameworks reviewed and opportunities identified opportunities for harmonization with Child / Early Marriage standards in the region;*
- *Physical and Humiliating Punishment (Corporal Punishment) – Current Legal settings and challenges, Regional and National Actions for achieving exclusive ban in South Asia; and*
- *Enhanced understanding of Traditional Practices Harmful for Children*

Chief Justices' Conference / Meeting

As mentioned earlier, the 9th Chief Justices Conference will also be hosted and taking place during the same time comprised of closed sessions for invited or selected guests. However, it is anticipated that sharing of key recommendations generated from the SAARCLAW – SAIEVAC event will be shared with delegates with an aim to raise awareness and generate additional engagement and support.

Topics for the 9th Chief Justices Conference will include:

- The value of judicial independence – an imperative for social and economic good; “Interactions between the Chief Justices and the Chief Executive - a necessity or a destroyer of judicial independence”;
- Continuing legal education - an imperative to enhance judicial efficiency;
- Ensuring efficiency and transparency as related to the admission and dismissals of appeals to the Highest Courts; and,
- The role and responsibilities of the Judiciary in a democracy.