**Terms of Reference (ToR)**

**Ain o Salish Kendra (ASK)**

**Legal analysis of existing laws on Sexual Abuse and Exploitation of Children**

**1. Background:**

Sexual harassment and exploitation of children in offline/online is a growing issue of concern in Bangladesh. Poverty plays as a key push factor for sexual exploitation of children. The latest UNDP report on human development shows that the proportion of the population living in multidimensional poverty is high throughout the South Asia, with the highest rates in Bangladesh (58%). Other push factors are lack of access to education and quality education, unemployment problem in rural areas, lack of scopes for institutional skill development, lack of knowledge about risk factor, different forms of sexual exploitation etc. Pull factors include dream of city life, aspiration for lucrative jobs, supplement the family income, poor law enforcement, lack of awareness among parents, and Child marriage as form of sexual exploitation and as a contributing factor to this violation continues to be a serious concern.

One of the mentionable problems for the vulnerable and victims is the knowledge gap on how and from where services can be accessed. It is also important to remember that sexually exploited children are often explicitly threatened with violence if they disclose any information about the harassment. So it is essential to break their silence and make them able to use this law which is already made for protecting them from such abuses. On the contrary, we have sufficient laws in our country addressing the various issues but reality is that we have no comprehensive law that can address all sorts of incidents happening in online and offline platforms[[1]](#footnote-1) including sexual harassment, abuse and exploitation covering the whole people including children of gender, ethnic minority, indigenous community, transgender, dalit and all other marginalized community in our country still now. The government enacted laws to combat cybercrimes and pornography but this law does not have adequate provisions to address online sexual harassment, abuse and exploitation of children.

Therefore, considering the magnitude of the issue, Ain o Salish Kendra (ASK) under the project “Building Back Better in times of Covid 19 fighting sexual exploitation of children on the rise” is planning to review the existing relevant laws and explore the gaps and challenges in order to addressing all these loopholes in the relevant laws which cover all these areas like an umbrella. The findings of the legal analysis will feed into strengthening existing laws and policies related to the Sexual abuse and Exploitation of Children. Based on the analysis, a set of practical legal and policy recommendation will be presented to the relevant authorities to act upon.

**2. Objectives:**

The objective of the review and analysis of relevant laws are-

* Identifying the loopholes in the existing laws to address child sexual abuse and exploitation;
* Provide specific recommendations for mitigating the gaps and challenges in the existing laws.
* Addressing safety & security measures for children in offline and online platforms;
* Identifying the gaps of specific laws for children which will help to avoid any conflict with existing laws;

**3. General condition and obligations**

The consultant (s)/ consultancy firm will conduct the review and analysis in accordance with the proposal submitted by the team. ASK will provide necessary assistance to design and implement the review program and will ensure active participation in the process.

**4. Indicators for review and analysis**

* The consultant(s)/consultancy firm will identify and propose a set of indicators considering the above objectives of the process.
* Formulation of indicators should include both quantitative and qualitative change.
* The consultant (s)/ consultancy firm will also propose a clear methodology and guideline to ASK.
* ASK will provide background information and necessary support to the consultant (s) as per demand through sharing meeting to finalized laws indicators and review assessment.

**5. The task/Scope of work:**

* Reviewing 10 cases of SEC to check how they were dealt and what were the challenges;
* Prepare the outline/ structure of the review and analysis as per existing relevant laws, Analyze existing documents and information
* Design an appropriate framework for the project outcome and activities.
* Visit and sorting the gap of the information on the specific relevant laws (online/offline sexual violence, sexual abuse and exploitation through review and analysis.
* Maintain and further develop the structure or format of the analysis required and incorporating ideas and amendments from the existing laws.
* Prepare a complete review and analysis the relevant laws for sharing the different level stakeholders and submission to the government.
* Incorporate comments and suggestions.
* Finalize the report.
* Laws or relevant provisions should also include coverage for both in online and offline sexual exploitation and abuse of children as a must;
* Reviewing and analyzing at least 4 to 6 existing relevant laws for covering whole area;

**6. Methodological guidelines:**

The consultant(s) / consultancy firm shall follow scientifically appropriate qualitative methodology tools to review the 4 to 6 existing laws for exploring its’ effectiveness to address the online sexual violence and harassment. The methodology and relevant tools will be finalized in consultation with ASK.

**7. Language:**

The language of the review/analysis report will be in English.

**8. Budget & Mode of Payment:**

* ASK will provide 3, 75,289/- [Three lac and seventy-five thousand two hundred eighty-nine taka] for the task after the finalization of the report.
* Income tax and VAT, as applicable, will be deducted at the source from the payments as per Bangladesh Government Rules.
* The Payment will be payable in two installments; 1st installment 30% after receiving draft report, 2nd and final installment 70% following submission and acceptance of the final report.

**9**. **Time frame:**

The Consultancy will start from **last week of September 2021** and the final submission will be provided by the consultant within **31 October 2021.** Tentative dates for report submission with review are given below:

|  |  |
| --- | --- |
| Draft report submission to ASK | 10 October 2021 |
| Review of draft report from ASK and comments to Consultant | 20 October 2021 |
| Report finalization and submission to ASK | 31 October 2021 |

**10. Deliverables:**

* Prepare the outline/ structure of the review and analysis
* Analyze existing documents, information and current cases on the issue
* Design an appropriate analysis and finalize it in consultation with ASK
* Collect, compile information and analyze the information through reviewing the laws.
* Recommend some policy guidelines which are needed to ensure legal protection of the human being from online/offline sexual harassment, abuse, torture, rape, violation, trafficking and exploitation.

**11. Required team composition:**

* The consultant must have a combination of recognize university degree in law.
* At least 5 years relevant experience on research /assessment/study and policy analysis work
* Extra value will be added if he/she has experience to conduct study/ assessment in the online sexual exploitation and harassment of children and adolescent.
* Excellent proven experience and understanding of human rights and child rights.
* Demonstrated experience in applying different participatory approaches.

**12. Plan for disseminations:**

The consultant team will be responsible to disseminate the findings to the key stakeholders including ASK staffs, relevant govt. officials. ASK will organize the dissemination workshop.

**13**. **Ethical Considerations:**

The review and analysis will make clear to all participating stakeholders that they are under no obligation to participate in the analysis. All participants will be assured there will be no negative consequences if they choose not to participate. Review and analysis will obtain informed consent from the participants.

**14. Submission of proposal:**

ASK invites proposal from firm/agency/organization/individual researchers and consultant. The proposal should be in English. The technical and financial proposal should be submitted in two separate envelopes. These two envelopes are then to be put in one larger envelope which must be sealed with a cover letter addressing the Executive Director, Ain o Salish Kendra, 2/16, Block-B, Lalmatia, Dhaka-1207, and Bangladesh. The proposal to be submitted at ASK office not later than **25th September, 2021.**

**15. Contact Person:**

ASK- Ambica Roy, Program Coordinator, TDH project, Child Rights Unit, ASK

1. **General Terms and Conditions and Disclaimers**

* ASK reserve the right to accept or reject any proposal without giving any verbal and/or written rationale;
* All reports and documents prepared during the assignment will be treated as ASK property;
* Therefore, the reports/documents or any part cannot be sold, used, and reproduced in any manner without the prior written approval of ASK; ASK or its representatives reserve the right to monitor the quality and progress of the work during the assignment.
* **Terrorism and money laundering issues**: If there any proof of engagement in any terrorism and money laundering problems, ASK rejects the proposal without assigning any reason.
* **Child Protection Policy, Code of Conduct, Gender Policy and Sexual Harassment Protection Policy**: The firm/organization/individual shall comply with the Child Protection Policy, Code of Conduct, Gender Policy and Sexual Harassment Protection Policy of ASK. Any violation/deviation in complying with ASK's child protection policy, Code of Conduct, Gender Policy and Sexual Harassment Protection Policy will terminate the agreement.

**17. Reference and intellectual Property:**

All written work must be authorized to the current sources. Copyright of all information in findings and others final report will remain with ASK.

**18. Termination:**

Both the parties have right to terminate the agreement subject to 15 days prior written notice to the other party and upon such termination, payment will be made for the completed portion of work. Advance payment, if any, will be adjusted for final settlement.

1. The Daily Star, 05 June 2015, http://103.16.74.132/in-focus/digital-sexual-harassment-digital-bangladesh-82480 [↑](#footnote-ref-1)