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Innocenti Research Centre

INNOCENTI INSIGHT

**SOUTH ASIA IN ACTION: PREVENTING  
AND RESPONDING TO CHILD TRAFFICKING  
ANALYSIS OF ANTI-TRAFFICKING INITIATIVES  
IN THE REGION**

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# EXECUTIVE SUMMARY

This UNICEF Innocenti Research Centre (IRC) publication presents an analysis of anti-trafficking initiatives relevant to children in the eight countries of South Asia: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

This publication acknowledges the adoption of several international standards and the promotion of regional agreements.

Like many other countries, the nations of South Asia lack mechanisms for harmonized and systematic qualitative and quantitative data collection, and for the dissemination of information on child trafficking. Statistics are often limited to cases of cross-border trafficking of women and girls for sexual exploitation. Data are seldom disaggregated by age, gender, national origin or form of exploitation. Thus, few reliable estimates exist of the magnitude of the phenomenon in South Asia. Furthermore, there is a lack of research on the links between child trafficking and other child protection issues, such as the protection of children's rights during migration and other forms of transit.

The vulnerability factors associated with child trafficking and its root causes need to be investigated in closer relation with other child protection concerns. These include: gender-based and other forms of discrimination that affect children; dysfunctional families; violence and abuse in the community, at home or in institutions; social and economic marginalization; and a lack of livelihood opportunities for children and young people; as well as attitudes, perceptions, social norms and structural factors that make children vulnerable.

Reports indicate that cross-border trafficking in human beings occurs in the majority of South Asian countries, which may be countries of origin, transit or destination. Internal trafficking (within national borders) is also common in South Asia and is estimated to be a significant form of trafficking in the region. Child trafficking takes place for various exploitative purposes. Among these are: sexual exploitation; exploitation through labour, including domestic servitude and begging; exploitation through use in criminal activities; exploitation in armed conflict; forced marriage; debt release; and settlement of disputes.

Many positive initiatives have been undertaken to address human trafficking in South Asia, and there is strong political commitment to prevent and address child trafficking. All countries in the region have ratified the Convention on the Rights of the Child and all countries except Bhutan and Pakistan have ratified the two Optional Protocols to the Convention.<sup>1</sup> However, none of the countries that

has signed these instruments has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the 'Palermo Protocol', 2000). All eight countries are members of the South Asian Association for Regional Cooperation (SAARC) and have signed its two conventions, aimed at preventing and combating trafficking and promoting child welfare, respectively.<sup>2</sup>

Most countries have legal standards that criminalize human trafficking; some standards specifically criminalize child trafficking. Other laws relevant to addressing child trafficking are in place, such as laws concerning sexual exploitation, forced labour and child labour, and forced or early marriage. However, national definitions of human and child trafficking vary throughout the region. Definitions of exploitation often do not reflect the elaboration provided in the 'Palermo Protocol'. At the same time, there is a general lack of conceptual clarity around the distinctions between child trafficking, sexual exploitation, prostitution, child labour and migration. This hinders effective, collaborative responses through regional and international cooperation.

Like several other nations, the countries of South Asia do not have a uniform definition of the legal age of majority, or common age limits that define a 'child' in different contexts. Some countries grant different standards of services and protection for girls and boys, for example, by providing boys less legal protection from sexual exploitation than girls, or by defining a lower minimum age of marriage for girls than for boys.

Legal protection for children who have been trafficked remains weak. Survivors of trafficking are not always recognized as such and may be held accountable for offences they committed as a result of being trafficked. While many genuine efforts are made to better protect children, the region generally lacks comprehensive child protection systems at national and community levels to prevent trafficking, prosecute perpetrators and assist trafficked children. Challenges remain in establishing child-friendly legal, medical and psychosocial services, community mobilization for child protection, and training of service providers. Other necessary measures include empowerment of children and youth and the development of data-collection tools.

Child trafficking is typically addressed mainly as a law enforcement and criminal justice issue, both within South Asia and globally. Legislation seldom includes legal, psychological or other kinds of assistance to survivors, or measures to ensure children's empowerment and protection. In some countries, the focus is on law

enforcement to control or criminalize prostitution, which emphasizes the ‘immorality’ of the sexual activity rather than the exploitation and abuse of the child. National legislation often addresses trafficking within the context of sexual exploitation of women and children, or women and girls. This focus draws attention away from children who are trafficked for other forms of exploitation, and may neglect trafficking of boys for sexual exploitation.

Policy frameworks are in place in many countries in South Asia to address trafficking in human beings. They include specialized national bodies and institutions and national plans of action (NPAs) or other policy tools, including mechanisms for multi-stakeholder, bilateral and regional cooperation. However, there is a lack of synergy and coordination between and among the action plans. A number of actors – governments, United Nations agencies, non-governmental organizations (NGOs) and community-based organizations (CBOs) – are developing anti-trafficking programmes. But the diversity of the mandates and approaches of the various actors makes coordination at national and international level a challenge.

Protection measures tend to focus on short-term assistance to the child. Scarce attention is paid to analysing the root causes of trafficking, or to identifying children at risk. Little focus has been placed on psychosocial support for children who have been trafficked or exposed to other forms of exploitation, abuse and violence. Improving livelihood options in communities as a measure to reduce risk also needs further attention.

The region offers valuable experience in promoting children’s active participation, especially in policy-making. Nonetheless, children’s experiences, recommendations and actions to prevent child trafficking are often overlooked when implementing and monitoring policies and programmes to combat trafficking and to assist children who have been trafficked. Children are seldom heard in legal and administrative procedures regarding their own cases, and their best interests are not always considered.

The study provides a number of positive examples of laws and policies relating to the prevention of trafficking, and the protection and empowerment of children and communities. Examples of independent human rights institutions are also given, such as the Afghanistan Independent Human Rights Commission, the National Human Rights Commission in India and the National Rapporteur on Trafficking in Nepal. Examples of bilateral agreements and regional cooperation mechanisms are also provided, such as the draft Joint Plan of Action for the Rescue, Recovery, Repatriation and Reintegration

of Child Victims of Trafficking between Bangladesh and India, 2007–2010. Examples of children’s actions to prevent trafficking and children’s involvement in policy-making are also included.

The study recommends the adoption of a human rights-based approach to child trafficking, including full implementation of the general principles of the Convention on the Rights of the Child.

There is an urgent need for governments to ratify key international instruments such as the ‘Palermo Protocol’, and to revise and amend existing laws to conform to international standards. National plans of action must include time-bound strategies to prevent and respond to child trafficking and sufficient resources should be allocated for their implementation.

Comprehensive child protection systems need to be developed or strengthened and made operational at national and community levels. These systems need sufficient resources to undertake a range of preventive and responsive measures to address child trafficking, violence, exploitation and abuse. Such measures should include: multi-stakeholder and multisectoral cooperation; capacity-building of professionals working with children; awareness-raising on child rights and child protection concerns; and the provision of child-friendly reporting mechanisms and child-friendly legal, medical and psychosocial services.

The development of bilateral agreements and minimum standards of care, protection and reintegration for children trafficked across borders are also crucial. Policies and programmes are proven to be more effective when informed by the experience of children. The mobilization of communities and the active participation of children are therefore strongly recommended. Furthermore, the systematic collection, analysis and dissemination of data are essential, as are mechanisms for ensuring that policies and programmes on child protection are properly and routinely monitored and evaluated.

# 1 BACKGROUND AND KEY ISSUES

## BACKGROUND

This UNICEF Innocenti Research Centre (IRC) publication presents a regional analysis of anti-trafficking measures relevant to children in the countries of South Asia. It assesses national legal and policy frameworks and provides a list of recommended actions for the application of a rights-based approach to child trafficking. Emphasis is placed on the indivisibility of human rights and the influence that trafficking, exploitation and abuse have on children's enjoyment of rights and fundamental freedoms. The study is based on the understanding that in order to ensure a comprehensive approach to child trafficking, exploitation and abuse, measures must be developed and implemented in full conformity with the 1989 Convention on the Rights of the Child and the broader framework of human rights.

A second report, *South Asia in Action: Preventing and responding to child trafficking – Child rights-based programme practices*, complements this study by presenting experiences of programming from the region. A third publication is a *Summary Report* that synthesizes the main findings and recommendations from the South Asia research.

These publications on child trafficking in South Asia form part of broader IRC research on the implementation of international standards, and on child trafficking specifically. They follow studies on child trafficking in Africa, and research undertaken in Europe in cooperation with the UNICEF Regional Office for Central and Eastern Europe and the Commonwealth of Independent States. IRC published reports on child trafficking in Africa in 2002 and 2004. More recently, in 2007, a publication and accompanying summary report on child trafficking in Europe were produced.

This report is structured in five parts: (1) the background and key issues that inform the laws and policies on child trafficking in South Asia; (2) a mapping of international and regional instruments relating to child trafficking; (3) a regional analysis of national legal and policy responses to child trafficking, including civil society initiatives, multi-stakeholder cooperation and community mobilization; (4) prevalent conceptual approaches that influence anti-trafficking initiatives in the region, and experiences from the South Asia region in adopting a rights-based approach; and (5) key findings and recommendations.

## OUTLINE OF THE REPORT

Chapter 1 covers the background to the study and essential issues relating to the phenomenon of child trafficking in South Asia. The points discussed are national legal definitions of trafficking, the challenges of

data collection and key issues relating to child trafficking in South Asia. These include: the relationship between trafficking and migration; forms of exploitation; trafficking patterns and routes; and the effect of various forms of discrimination on trafficking.

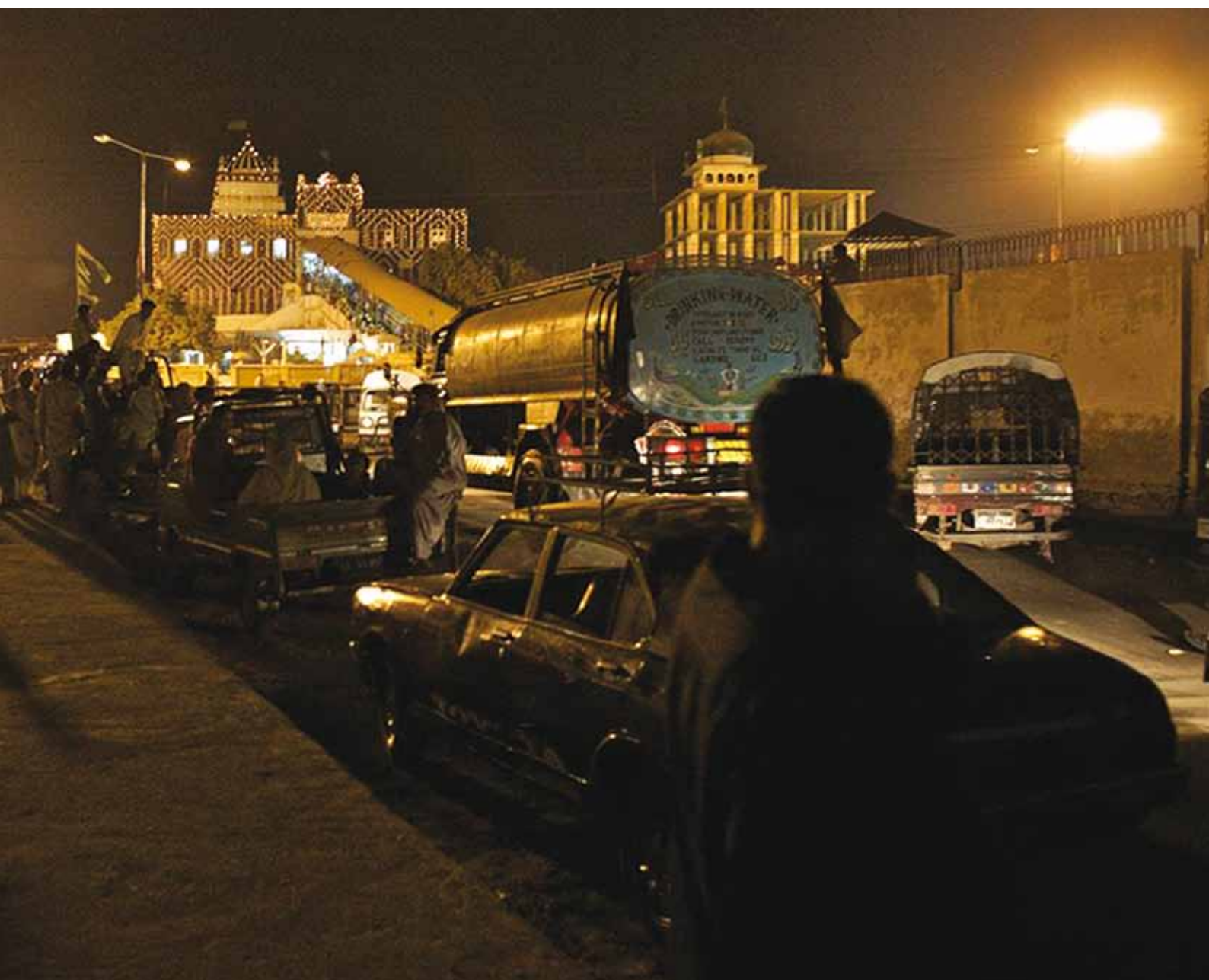
Chapter 2 reviews international and regional instruments relevant to addressing child trafficking. Particular focus is placed on the international framework on the rights of the child and the international definition of child trafficking.



Chapter 3 discusses national legislation and policy responses undertaken by the eight countries in South Asia. It highlights the countries that have developed domestic laws, policies and national bodies that specifically deal with child trafficking, and the content of these initiatives. This chapter also includes other areas of national law and policies relevant to addressing aspects of child trafficking, such as laws concerning sexual exploitation, forced labour and child labour, and forced or early marriage. Also highlighted are national anti-trafficking initiatives on bilateral collaboration, multi-stakeholder cooperation and the involvement of non-governmental

organizations (NGOs) and community-based organizations (CBOs).

Chapter 4 addresses conceptual approaches to trafficking and good experiences emerging from the adoption of a rights-based approach in South Asia. Each conceptual approach addresses different dimensions of trafficking in children and thus offers fresh understanding that may result in new solutions. These approaches are: trafficking as a law enforcement and criminal justice issue; movement in the trafficking process; trafficking for the purpose of sexual exploitation; trafficking as a labour issue; and a



human rights-based approach to trafficking. This chapter presents examples from South Asia in which a rights-based approach has been adopted in anti-trafficking initiatives that focus on the prevention of trafficking and the protection and empowerment of children.

Chapter 5 presents key findings and recommendations from the study. The findings highlight gaps and areas requiring further attention in the region. Particularly important is the development of a human rights-based approach to child trafficking. These will ensure comprehensive prevention of trafficking, together with protection and empowerment of children who are survivors of, or at risk of, trafficking and other forms of exploitation and abuse.

## KEY ISSUES

### The concept of child trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (informally known as the 'Palermo Protocol') is the first legal instrument to provide an internationally agreed definition of trafficking in human beings and child trafficking.<sup>3</sup>

The 'Palermo Protocol' (see Box 1 at right for the definition of trafficking provided by the Protocol) was adopted in 2000 and entered into force in 2003. With regard to child trafficking, it is clear that no violence, deception or coercion is required for a person under 18 to be considered a victim of trafficking; it is sufficient that he or she has been recruited and moved for the purpose of exploitation.

Article 3 (c) of the Protocol states that "[t]he recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in sub-paragraph (a) of this article." This definition implies an understanding that a child cannot consent to being trafficked, and that a child's 'consent' is not recognized as a justification for any form of child exploitation or abuse.

Child trafficking is a global phenomenon, and is not limited to any geographical region or country. It is a gross violation of the human rights and fundamental freedoms of children. It infringes upon the child's physical and mental integrity, which are central to the experience of human dignity, and poses a significant threat to the child's life. Child trafficking is inherently a dynamic, hidden phenomenon that is difficult to identify. If trafficking occurs across borders, it may involve illegal border crossing, the use of forged documents and unlawful stays in foreign countries. The places where trafficked persons are exploited are therefore rarely under legal control or easily accessible to governments and NGOs. The forms and degrees of exploitation may change as traffickers vary their strategies.

The definition of child trafficking in the 'Palermo Protocol', is complex and can be difficult to apply in practice. It may be challenging to differentiate between a child victim of trafficking and a child who has experienced other forms of exploitation or abuse. This is especially the case when exploitation and abuse take place in the context of movement or migration, and when the available information on a child's situation and background is incomplete. In the absence of a uniform system for identifying children who are survivors of various forms of exploitation and abuse, trafficked children are often misidentified. They may be identified as migrant children, immigrants with irregular status, victims of sexual exploitation and abuse, juvenile delinquents or children living on the street. At the same time, not all children identified as having been trafficked have actually had experiences that fall under the international definition of child trafficking. Therefore, the way in which cases are identified and recorded in national statistics may not reflect the full scope of child trafficking.

Children may be hesitant to be identified as trafficking victims. They may fear threats from traffickers against themselves or their family members, social stigma or legal consequences. Children may have concerns that, once identified as having been trafficked, they will not be able to make money, pay off their debts or live up to the expectations their families have of them.

### BOX 1

#### DEFINITION OF TRAFFICKING

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

"The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in sub-paragraph (a) of this article."

– Articles 3(a) and 3(c) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Children may also assume that their interests will not be given sufficient recognition once they have been identified by law enforcement or service providers. This may lead them to decide that identification and its consequences do not serve their own interests. Some children may fear that they may have to testify against the trafficker in court, or that they will be sent back to their communities before the risk factors have been properly assessed.

According to the reports referred to in this study, children are trafficked both within and across borders in South Asia. They are trafficked into sexual exploitation, labour exploitation, domestic servitude, criminal activity, begging, exploitation in armed conflict, arranged marriage and other exploitative situations.

### **Trafficking and migration**

Trafficking and migration are two entirely different, but often related, phenomena. Trafficking often involves persons who want to migrate, either internally or externally, but who are recruited by traffickers before, during or after the migration process. As highlighted in a report by the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, "Traffickers fish in the stream of migration."<sup>4</sup> Anti-trafficking initiatives must therefore address the broader context of migration within which trafficking often occurs.

It is important for governments to ensure that the rights of children are safeguarded in all aspects and circumstances of mobility and migration. Human trafficking is just one of the ways in which people move, or are moved, from one area to another. Some people move because they are being trafficked; others migrate 'voluntarily', with or without legal travel documents; and some rely on the assistance of smugglers to cross borders. Human trafficking must be distinguished from migration and smuggling. **Trafficking** involves the movement of persons often, though not always, through coercion or deceit, and always for the purpose of exploitation. In **irregular migration**, a person crosses state borders without legal travel documents. **Smuggling** occurs when a third party assists a migrant to cross a state border illegally for financial gain.<sup>5</sup>

Important consequences flow from these different definitions. First, trafficking by definition involves exploitation, while irregular migration and smuggling do not. However, undocumented migrants are at high risk of being trafficked and may experience violence during migration or at their destination. Second, while irregular migration and smuggling necessarily involve crossing state borders without permission, trafficking does not. Trafficked persons may be moved within the borders of a country or may enter another country with valid travel permission but nonetheless end up at sites of exploitation.

## **BOX 2**

### **DEFINITIONS: COUNTRIES OF ORIGIN, DESTINATION AND TRANSIT, AND INTERNAL TRAFFICKING**

Exploitation and abuse can occur at all stages of the trafficking process – in origin, transit and destination countries, as well as in the context of internal trafficking.

#### **COUNTRY OF ORIGIN**

This refers to the country in which a person is first recruited or abducted for trafficking. In many cases, the country of origin is the trafficked person's home country. However, it may also be a country of residence or a country to which someone has migrated before trafficking occurs.

#### **COUNTRY OF DESTINATION**

This is the country to which a trafficked person is brought for the purpose of exploitation. The destination country is not always the final point in the trafficking process since a person may be transferred to another country, or may be recruited by another trafficker at any stage in the process.

#### **TRANSIT COUNTRY**

This refers to a country through which the trafficking route leads (for geographical or logistical reasons) before the destination country is reached.

#### **INTERNAL TRAFFICKING**

This is trafficking that occurs within a country's borders. Victims of internal trafficking may be nationals of the country in which they are trafficked, migrants with or without legal status who reside in the country over the short or long term, stateless persons or other persons. When internal trafficking occurs, a country is considered to be both a country of origin and a country of destination.

### BOX 3

#### THE DEBATE ON THE LEGALIZATION OF SEX WORK

In South Asia, a topic of debate within the NGO community is whether sex work by adults should be legalized or criminalized. The debate has gained ground because much of the anti-trafficking legislation in the region is related to commercial sexual exploitation and is linked to anti-prostitution measures.

The central argument of those who support **legalization** is that criminalizing sex workers (and their clients) worsens the situation by pushing sex work 'underground', leaving sex workers more vulnerable.<sup>i</sup> They argue that legalization would improve the living and working conditions of sex workers by regulating the licensing of sex work, enforcing the provision of health care, and increasing the possibility for sex workers to organize themselves, as do workers in other sectors. Another contention is that formal recognition of sex work would provide increased opportunity to protect sex workers from abuse and violence and give them more negotiating power. It is also argued that organization and regulation of sex work would make trafficking of children for sexual exploitation more difficult because adequate control measures could be implemented.<sup>ii</sup> Regarding the impact of criminalizing prostitution on persons trafficked for prostitution, the former United Nations Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, noted "experience has shown that criminalization of prostitution results in the double victimization of the woman concerned as she, and not the traffickers, becomes the main target of police action."<sup>iii</sup>

Central to the arguments of those individuals and groups that are in favour of criminalization is that buying sex is a form of gender discrimination and violence against women. They argue that legalization allows for gender-based discrimination to exist and reproduces gender inequities for women, who make up the majority of sex workers.<sup>iv</sup> This argument holds that making sex work a formal industry would diminish the pressure to provide women and girls with work alternatives and would reduce their livelihood options. Girls and boys would be socialized into gender roles that accept the commodification of women's bodies. Furthermore, legalization is anticipated to lead to more trafficking and to abuse by authorities who issue licences, thereby making women more vulnerable to state control.

Approaching the sex work debate from a child trafficking perspective presents a range of significant concerns. Legalizing adult sex work and formally regulating the industry could enhance control of human trafficking, including child trafficking. But it could also lay the groundwork for growth in the sex industry and decrease official and public attention to it, thereby opening the door to increases in trafficking to sexual exploitation of both adults and children.

It is essential to clearly distinguish between adult sex work and the phenomena of sexual exploitation of children. As parties to the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, States have a clear obligation to prevent all forms of exploitation, abuse and trafficking of children.

#### Notes:

<sup>i</sup> An example of an organization in favour of legalizing prostitution is the Durbar Mahila Samanwaya Committee, an organization of sex workers in Kolkata, India. The organization calls for the decriminalization of adult sex work, and the right of sex workers to retain and raise their children, to form a trade union and to be free of social stigma.

<sup>ii</sup> An example comes from the Sonagachi Project in Kolkata, India, where women sex workers have organized and negotiated condom use to prevent the spread of HIV, formed a microcredit cooperative and attempted to combat the trafficking of underage girls. See Durbar Mahila Samanwaya Committee, the Third State Conference of Sex Workers, Kerala, 2005, at <[www.kit.nl/exchange/html/2005-1\\_sex\\_workers\\_of\\_kerala.asp](http://www.kit.nl/exchange/html/2005-1_sex_workers_of_kerala.asp)>.

<sup>iii</sup> United Nations, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 2000/45, Addendum – Mission to Bangladesh, Nepal and India on the Issue of trafficking of women and girls, E/CN.4/2001/73/Add.2, United Nations, New York, 6 February 2001, para. 39.

<sup>iv</sup> Ramesh, Asha, 'Not Just a matter of Choice', *India Together*, 26 September 2004.

## BOX 4

### THE CHALLENGES OF DATA COLLECTION

- Statistics seldom provide a complete picture of the nature and extent of child trafficking. Data are often limited to cases of cross-border trafficking of women and girls for sexual exploitation. National data are rarely disaggregated by age, gender, national origin or form of exploitation.
- Even when statistics are disaggregated, challenges remain in determining the age of the victims, and hence an accurate number of children trafficked.
- In some countries, a lack of access to birth registration, poor registration methods and unreliable data can lead to doubts about the age of trafficked persons. In addition, a child may be recruited, trafficked and exploited while still under age 18, but in some cases may be registered as a victim of trafficking and provided with assistance only after turning 18.
- Statistics from law enforcement authorities and service providers are not always integrated nationally. They may use different means of identifying “persons” who have been trafficked, making it difficult to determine the exact number of children identified as victims of trafficking in a country and to compare statistics from different sources.
- No centralized regional or international mechanisms exist for systematic data collection on trafficking. International comparison of national statistics is almost impossible due to variations in national definitions of human and child trafficking. Cross-country comparisons are further hindered by the lack of standardized indicators for identification, the lack of guidelines for data collection and the varying quality of national statistics. This poses challenges not only for cooperation between countries but also for the identification of trafficked children.
- It is difficult, if not impossible, to compare statistics from different years in order to assess the changes in trafficking over time, as these are typically measured using different parameters. For instance, an increase in the number of children identified and assisted as victims of trafficking may indeed signify an increase in the number of trafficked children. Alternatively, it may reflect improved means of identifying and assisting trafficked children. Similarly, a decline in the number of identified victims of trafficking may mean a decline in overall cases of child trafficking. However, it may also indicate a lack of concern for the issue, resulting in less effective means of data collection, or reluctance on the part of victims to be identified and assisted.
- The lack of disaggregated data makes it difficult to identify which groups of children are vulnerable to trafficking and exploitation. This information is needed to improve understanding of the root causes of trafficking, and the links between child trafficking and discrimination based on gender, disability, ethnicity, nationality and social or economic status.
- The lack of comprehensive knowledge about trafficking results not only from an absence of quantitative data but also from a lack of qualitative information. In addition to statistical analysis of the numbers of identified and registered child victims of trafficking, more in-depth information is needed to support prevention and protection. Other questions must be answered according to specific contexts, such as: Where are the majority of victims located? How do traffickers procure and move the victims? To what extent do the families participate in, or are aware of the trafficking? Why are some communities, families and children more vulnerable to trafficking than others? What are children’s views and perceptions about the support services they or their friends have received and about their own life options?
- Research, including the collection and analysis of qualitative and quantitative data, is necessary to better target initiatives to prevent trafficking, to support children who have been trafficked, and to measure the effectiveness of anti-trafficking initiatives.

The Convention on the Rights of the Child protects not only children who are citizens of a State Party, but all children, irrespective of their nationality and whether or not they have been trafficked. General Comment No. 6 issued by the Committee on the Rights of the Child, on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, stresses that States should not discriminate against migrant children.<sup>6</sup>

There are a number of scenarios in which governments do not adequately recognize the intersection of the two phenomena. For example, the Government of Nepal has restricted women's migration in an attempt to protect them from being trafficked. This measure fails to address the legitimate reasons why women and children may decide to emigrate. Moreover, closing legal channels of emigration may induce persons who are eager to migrate to seek clandestine means – thereby potentially increasing rather than decreasing their risk of exploitation, including through trafficking. The same concern applies with regard to destination countries, where stricter border controls or visa regimes are often enforced to prevent trafficking into the country.

This said, identification of persons who have been trafficked at borders is often challenging. With inadequate and varying systems of identification and reporting, survivors of trafficking are often misidentified as migrant children, immigrants with irregular status, survivors of sexual exploitation and abuse, juvenile delinquents or children living on the street. At the same time, not all children identified as victims of trafficking have actually had experiences that fall under the international definition of child trafficking, according to the 'Palermo Protocol'. In addition, trafficking is not always a cross-border issue, as persons may be trafficked within their own country or within a destination country after migration.

### Trafficking patterns and routes

Trafficking is reported in nearly all countries in South Asia. However, the scope of data and information available on trafficking in different countries varies greatly. Bangladesh, India and Nepal have more data than the other countries in the region, while only Bhutan and Maldives have more recent information on trafficking.

These variations do not correspond to, or reflect, the extent of the problem of trafficking, exploitation and abuse of children in these different countries. On the contrary, they illustrate that more systematic data collection is needed at national and regional levels. Moreover, statistics are often collected only for cases of cross-border trafficking of women and girls for sexual exploitation. Thus, information is scarce on the extent of trafficking for other purposes, the trafficking of boys for sexual exploitation and internal trafficking.

An analysis of the flows and patterns of cross-border trafficking indicates that the majority of South Asian countries serve as destination, origin and transit countries.<sup>7</sup> Trafficking takes place both within the region and between South Asia and other regions, including East Asia,

Europe and the Gulf States. However, South Asia is mostly reported as a region of origin. In some cases trafficking is 'symmetrical', meaning that trafficking routes lead both into and out of two countries, for example, to and from Afghanistan and Pakistan.

Most reports cover cross-border trafficking, and limited data exist on internal trafficking. However, reports indicate that internal trafficking in children takes place throughout the region, particularly from rural to urban areas, in countries such as Bangladesh, India, Pakistan and Sri Lanka.<sup>8</sup>

### Forms of exploitation

It is very difficult to quantify how many children are affected by trafficking, given the challenge in identifying children who have been trafficked and the lack of reliable data-collection systems. Moreover, exploitation and abuse can occur at any stage in the trafficking process – in origin, destination or transit countries. Although proof is lacking with regard to some of these categories, reports suggest that children are trafficked for the following purposes, among others:

- Sexual exploitation, including in travel and tourism
- Labour exploitation, such as work in sweatshops, fields, factories and camel races, as well as domestic servitude
- Illicit adoption
- Begging and criminal activity
- Forced or arranged marriage
- Debt release and dispute settlement
- Forced military recruitment

There are indications that children have been trafficked for the sale of organs; however this is an area that needs further research.<sup>9</sup> Trafficking for sexual and labour exploitation is reported in most countries in the region and trafficking for the purpose of forced or arranged marriage is also reported in many countries. Trafficking for dispute settlement, debt release and forced military recruitment are particularly relevant to Afghanistan.<sup>10</sup>

Children are trafficked to various sites of exploitation. The international definition of child trafficking does not specifically define 'exploitation', but it lists some examples:

"Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."<sup>11</sup>

The Convention on the Rights of the Child applies a broader notion of child trafficking as it calls on States to "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form" (article 35).



The link between sexual abuse and sexual exploitation is another area that needs further attention. Sexual abuse is recognized as a potential contributor to the sexual exploitation of children. Sexual abuse at home may force children to leave their families, making them more vulnerable to sexual exploitation.<sup>12</sup>

### **Sexual exploitation of boys**

Laws against sexual exploitation in South Asian countries are insufficiently comprehensive in scope, and do not offer children full protection. Moreover some laws cover only women and girls, and fail to protect boys. There is a lack of research and information available on the trafficking of boys for sexual exploitation.

A study by ECPAT (the network End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) estimates that the number of boys who have been sexually exploited by foreign nationals in Sri Lanka is between 5,000 and 30,000.<sup>13</sup> Boys' vulnerability to

sexual exploitation appears to increase in more socially restricted and gender-segregated environments, where girls are expected to stay in the home and boys are given greater social mobility. In some instances families are aware of the situation, but fear of being stigmatized may lead to silence.<sup>14</sup> In Pakistan, boys from poor communities, refugees and, especially, boys with feminine characteristics, were identified as particularly at risk of sexual exploitation. Most had previously been sexually abused. Almost all the exploiters were Pakistani men, and public places such as bus stops and marketplaces were identified as pick-up points.<sup>15</sup>

### **Challenges in data collection**

Many statistics about trafficking and estimates of its scope are circulated globally. In 2002, the International Labour Organization (ILO) estimated that each year 1.2 million children are trafficked for the purposes of labour or sexual exploitation globally.<sup>16</sup> The majority of sources do not specify the methodologies used or the assumptions

made in calculating their estimates. While their validity cannot be tested, the true scale and scope of child trafficking worldwide, and particularly in South Asia, remain unverified and quite possibly unverifiable.

Several countries in South Asia are developing databases and systems for data collection on traffickers and persons who have been trafficked. However, there is an absence of mechanisms for systematic, harmonized and disaggregated data collection, analysis and dissemination. This gap has been identified in all regions of the world. Verified estimates regarding the scale of child trafficking do not exist. Official data on the extent of child trafficking in South Asia are often inconsistent and do not include explanations of the methods used for data collection. (See Box 4, page 7 for a discussion of other issues related to data collection.)

### **Diversity, discrimination and social exclusion**

Many anti-trafficking interventions focus on ‘women and children’ without adequately addressing the differences in their needs and concerns, or recognizing the evolving capacities of the child. Although both women and children are particularly vulnerable to being trafficked, the reasons for their vulnerability may differ, and anti-trafficking strategies must be adjusted accordingly. The United Nations High Commissioner for Human Rights has recognized that the particular harm suffered by children and their increased vulnerability to exploitation require that anti-trafficking interventions deal with adults and children separately.<sup>17</sup>

The legal obligation of governments to safeguard children’s human rights differs in a number of ways from their legal obligation to safeguard the human rights of adults. This distinction between adults and children is particularly important in the areas of counselling, legal assistance, participation in criminal investigations, trials and reintegration initiatives. For children who have been trafficked across a national border, jurisdiction over the child needs to be established promptly. Governments have a further legal obligation to ensure that children’s best interests are the primary consideration in all actions concerning them. This implies that the appropriate mechanisms to determine children’s best interests need to be in place to ensure their views are heard and taken into account.

In the interpretation of national laws and policies in South Asia, the word ‘child’ is sometimes used synonymously with ‘girl’, particularly in the case of trafficking for sexual exploitation. It is important not to assume that only girls or boys are trafficked for gender-specific purposes. A gender and diversity analysis should be carried out, looking at the specific situation and vulnerability factors of girls and boys of various ages and backgrounds.

Factors such as age, gender, ethnic origin, caste, sexual orientation and disability are often-connected grounds for discrimination. Discrimination on single or multiple grounds may increase a child’s vulnerability to abuse, exploitation and trafficking. Different prevention and

protection measures may be required, such as wheelchair access to services and information materials in minority and indigenous languages.

However, it is important not to separate and isolate children into categories that require separate programmes and policies. Identifying them as ‘different’ or excluding them from broader anti-trafficking programmes may make them more vulnerable to discrimination. They are all children, first and foremost, and their differences must be recognized to form a basis for understanding and responding to their needs and distinguishing between the different forms of discrimination that place some children at higher risk of being trafficked.

### **Gender-based discrimination**

Gender inequality and gender-based discrimination are serious concerns across the South Asia region and are recognized as root causes of trafficking. Discrimination against girls begins before birth and continues throughout their lives. Girls are at higher risk than boys of foeticide and infanticide, and their basic needs are often neglected, especially when family resources are scarce. Their mobility is frequently restricted, and in many communities girls have less access than boys to services such as education and health care.<sup>19</sup>

Due to the social and economic consequences of having an unmarried daughter, some family members promote early or forced marriages, despite the fact that these practices are illegal throughout the region. In many instances, this increases the likelihood of early pregnancy, and heightens girls’ vulnerability to sexual abuse and violence. In some countries, such as Afghanistan, girls are traded as a way of dispute resolution.<sup>20</sup> In some parts of India, the traditional practice of *devadasi*, which requires a girl to be married or dedicated to a temple deity, is still practised. Evidence shows that these girls often end up as victims of sexual exploitation.<sup>21</sup> In the context of the patriarchal structures that govern the lives of many girls and women in South Asia, their disempowerment is further reinforced by circumstances such as poverty, violence, conflict and natural disasters.

Gender-based discrimination also intersects with other forms of discrimination. Discrimination due to factors such as ethnic origin, caste, religion, disability or sexual orientation also increases the vulnerability of certain groups of girls and women. This has been termed ‘multiple and/or intersectional discrimination’, which describes discrimination on the basis of several, often interrelated grounds.<sup>22</sup>

The vulnerability of boys is another area that needs further attention when addressing the root causes of trafficking. For example, boys are at higher risk of becoming child soldiers and of ending up in the justice system than girls. And fewer protection measures are available for boys who have been sexually exploited than for girls.

### ***Discrimination due to HIV and AIDS***

Globally, the prevalence of HIV infection is highest among young women between 15 and 25 years old.<sup>23</sup> Adolescent girls and young women in South Asia are a high-risk group due to their low socio-economic status. Children exploited in the sex trade – both male and female – are at particularly high risk due to their form of work and precarious living conditions.

Gender-based discrimination and violence interfere with girls' and women's possibilities for self-determination over their bodies and lives. It also affects their access to health care and prevention measures, such as information and services (such as drop-in centres and health clinics).

Gender-based violence is both a root cause of trafficking and a factor in other protection contexts. Sexual abuse and exploitation make young girls and women vulnerable to trafficking, increasing their risk of HIV infection.<sup>24</sup>

People who have been trafficked are removed from their communities and social support systems. This may well increase their vulnerability to HIV infection. In addition, stigma and discrimination affect those who are HIV-infected as well as those who have been sexually exploited. These factors undermine the basic rights and freedoms of the affected individuals, including the right to services, residence, confidentiality and freedom of association, as well as sexual and reproductive rights.<sup>25</sup>

### ***Age of majority and the evolving capacities of the child***

Article 1 of the Convention on the Rights of the Child defines children as all persons below the age of 18, and it outlines their needs and rights accordingly. The 'Palermo Protocol' and the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution also define children as persons below the age of 18. However, the age of majority for children and other legal age limits vary considerably throughout South Asia. The legal age of majority directly affects how stakeholders, particularly the police and courts, address children's needs, respect their ability to make decisions, and approach their innocence and accountability.

In this context, it is also relevant to discuss the evolving capacities of the child. Article 5 of the Convention on the Rights of the Child recognizes this concept. It establishes a balance between recognizing children as active agents in their own lives – entitled to be listened to, respected and granted increasing autonomy in the exercise of their rights – and being entitled to protection in accordance with their relative immaturity and youth. "States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent

with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention" (article 5 of the Convention on the Rights of the Child, 1989).

The concept of evolving capacities recognizes the fact that children mature over time and gain the capacity to take responsibility for decisions involving them. It also acknowledges that age is not the only factor determining a child's competency, as different cultural, social and historical contexts affect child development in different ways.<sup>26</sup> Acknowledging the evolving capacities of the child is highly important within many areas of child protection. These include: serving as a witness in court; providing consent for medical treatment; ensuring confidentiality in legal processes; and involvement and participation in policies, practices and decisions affecting their daily lives in shelters and homes. Although they are not always endorsed, children's personal opinions must be taken into account by their families and state authorities.<sup>27</sup>

# 2 CONVENTIONS, LAWS AND POLICIES

## INTERNATIONAL CONVENTIONS AND GUIDELINES

A number of international agreements seek to safeguard the rights of the child in the context of trafficking and related forms of exploitation. International legal standards on trafficking in persons are complementary. To ensure the full protection of children's rights, all relevant treaties (*see Table 1, page 13*) must be ratified and effectively implemented.

### Convention on the Rights of the Child

The Convention on the Rights of the Child is the most comprehensive legal instrument for the protection of child rights. It has been ratified by all of the South Asian countries.<sup>28</sup> Although other areas of international human rights law include provisions with particular reference to children, the Convention on the Rights of the Child is unique, in that it views children as active holders and negotiators of their rights.<sup>29</sup> The Committee on the Rights of the Child emphasizes that "States must see their role as fulfilling clear legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favours on children."<sup>30</sup> The broadness and specificity of the text, the importance it places on the agency of the child, recognizing the child as a social actor, and its almost universal ratification make the Convention on the Rights of the Child indispensable to any efforts against child trafficking and exploitation.

The Convention on the Rights of the Child obliges States to take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual exploitation.<sup>31</sup> This includes economic exploitation (article 32), exploitation for drug trafficking (article 33), sexual exploitation (article 34), human trafficking (article 35) and any other forms of exploitation that are prejudicial to the child's welfare (article 36).

Article 9.1 states that children must not be separated from their parents against their will, "except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child." Article 11 requires States to combat the illicit transfer and non-return of children abroad. Article 35 specifically addresses child trafficking and affirms that "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form."

Children who are temporarily or permanently deprived of their family environment are entitled to special protection and assistance (articles 20 and 21). In the selection of alternative care, due regard must be paid to the continuity of the child's upbringing and of her or his ethnic, religious, cultural and linguistic background. Article 21, among other statements, establishes that international adoption must not involve "improper financial gain."

Non-discrimination is a fundamental principle in the Convention on the Rights of the Child, as it is in human rights law generally. It requires that States Parties take all appropriate measures to ensure the protection of the child against all forms of discrimination and punishment on the basis of the status, expressed opinions, or beliefs of the child's parents, legal guardians or family members (article 2). The Convention also establishes the right of every child to a nationality and the highest attainable standard of health and education. These rights apply to children regardless of their residency status. Article 3 provides that in all actions concerning children, "whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

Moreover, the Convention recognizes children's agency by reaffirming their right to freedom of thought, conscience and religion; to be consulted on matters that affect them; to express their opinions; to freedom of association and to seek, impart and receive information.<sup>32</sup> A fundamental principle in the Convention is respect for the views of the child in matters that affect him/her and giving those views due weight in accordance with the child's age and maturity (article 12). This principle "indicates the right of the child to access and participate in decision-making processes affecting his or her life and influence decisions taken on his or her behalf within the family, in the school or in the community. For this reason, this principle is often presented as a right of the child to participation."<sup>33</sup>

Article 4 lays out the general measures for the implementation of the Convention, obliging States Parties to take all appropriate legal, administrative and other measures to implement the rights contained in it. Regarding social, economic and cultural rights, States Parties are required to undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

### Optional Protocol on the sale of children, child prostitution and child pornography

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC)<sup>34</sup> calls on States Parties

**Table 1. Status of ratification of instruments relevant to child trafficking by States in South Asia**

Convention/Protocol	Ratification/Accession*	Signature
Convention concerning Minimum Age for Admission to Employment (International Labour Organization Convention No. 138; 1973)	Nepal (1997) Pakistan (2006) Sri Lanka (2000)	
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (International Labour Organization Convention No. 182; 1999)	Bangladesh (2001) Nepal (2002) Pakistan (2001) Sri Lanka (2001)	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	Afghanistan (1985) Bangladesh (1985) India (1953) Pakistan (1952) Sri Lanka (1958)	
Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993)	India (2003) Sri Lanka (1995)	
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Afghanistan (2003) Bangladesh (1984) Bhutan (1981) India (1993) Maldives (1993) Nepal (1991) Pakistan (1996) Sri Lanka (1981)	
Convention of the Rights of the Child (1989)	Afghanistan (1994) Bangladesh (1990) Bhutan (1990) India (1992) Maldives (1991) Nepal (1990) Pakistan (1990) Sri Lanka (1991)	
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000)	Afghanistan (2003) Bangladesh (2000) India (2005) Maldives (2004) Nepal (2007) Sri Lanka (2000)	Bhutan (2005) Pakistan (2001)
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)	Afghanistan (2002) Bangladesh (2000) India (2005) Maldives (2002) Nepal (2006) Sri Lanka (2006)	Bhutan (2005) Pakistan (2001)
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)		India (2002) Sri Lanka (2000)
Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (SAARC)	Afghanistan (2007) Bangladesh (2002) Bhutan (2002) India (2002) Maldives (2002) Nepali (2005) Pakistan (2002) Sri Lanka (2002)	
Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia (SAARC)	Afghanistan (2007) Bangladesh (2002) Bhutan (2002) India (2002) Maldives (2002) Nepali (2005) Pakistan (2002) Sri Lanka (2002)	

\* For the countries that have both signed and ratified the respective conventions/protocols, only the year of ratification is shown.

<sup>i</sup> The Convention was ratified in 2005 by the Cabinet headed by the King. Due to a change in government, the Convention was re-ratified by the Parliament in 2006. Information provided by UNICEF Nepal Country Office, September 2008.

<sup>ii</sup> The Convention was ratified in 2005 by the Cabinet headed by the King. Due to a change in government, the Convention was re-ratified by the Parliament in 2006. Information provided by UNICEF Nepal Country Office, September 2008.

to criminalize the sale of children, child prostitution and child pornography.<sup>35</sup> The sale of children is defined in article 2 (a) as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.” Article 2 (b) defines ‘child prostitution’ as “the use of a child in sexual activities for remuneration or any other form of consideration.” Article 2 (c) specifies that “child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.”

The OPSC requires States Parties, at a minimum, to criminalize the sale of children, and the sexual exploitation of children in prostitution and child pornography, whether committed domestically or transnationally (article 3). In the context of the sale of children, the scope of the Protocol goes beyond the purpose of sexual exploitation. It mentions specifically “(i) offering, delivering or accepting, by whatever means, a child for the purpose of: a. Sexual exploitation of the child; b. Transfer of organs of the child for profit; c. Engagement of the child in forced labour; [and] (ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.”<sup>36</sup>

#### **Optional Protocol on the involvement of children in armed conflict**

The preamble of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) recognizes the special needs of children who are particularly vulnerable to recruitment or use in hostilities owing to their economic or social status or gender.<sup>37</sup> Furthermore, the OPAC requires ratifying States to take all feasible measures to ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities (article 1). It states that children under age 18 are entitled to special protection (article 3.1) and that any voluntary recruitment of persons under the age of 18 must include adequate safeguards (article 3.3). The OPAC further bans compulsory recruitment below the age of 18 (article 2). Article 7.1 requires States Parties to cooperate in implementing the Protocol, for example through preventive measures and the rehabilitation and social reintegration of victims, including through technical cooperation and financial assistance.

The links between child trafficking and the recruitment or abduction of children into armed forces demand further attention.

#### **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the ‘Palermo Protocol’), is the first legal instrument to provide an internationally agreed definition of ‘trafficking in persons’ and ‘child trafficking’ (article 3 [a]; [d]).<sup>38</sup>

As stated in its preamble, the ‘Palermo Protocol’ is intended “to prevent and combat trafficking in persons [through] a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims.”<sup>39</sup> One of its stated purposes is to “protect and assist the victims of...trafficking, with full respect for their human rights.”<sup>40</sup> Articles 9.1 (a) and 9.1 (b) require States Parties to establish comprehensive policies that specifically prevent re-victimization.

The ‘Palermo Protocol’ supplements the Convention against Transnational Organized Crime and therefore focuses more on aspects of criminal law than on the protection of victims.<sup>41</sup> It emphasizes border control and security of documents, while it is vague on the types of measures that States shall “endeavour to undertake” to assist trafficked persons.<sup>42</sup> In order to protect the human rights of trafficked children, the ‘Palermo Protocol’ should be applied along with other international standards, in particular the Convention on the Rights of the Child and its Optional Protocols, which contain more explicit measures to protect the rights and interests of trafficked children. Unlike those of the ‘Palermo Protocol’, the provisions of the Convention on the Rights of the Child and its Optional Protocols are mandatory. The two Optional Protocols complement one another, each approaching the issue of child trafficking and exploitation from a different perspective. Ratification of both instruments is therefore essential to the provision of broad protection for children who have been trafficked or sold into exploitation.

#### **Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others**

The focus of this Convention, which entered into force in 1951 and is informally referred to as the ‘Trafficking Convention’, is on “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution.”<sup>43</sup> Accordingly, it calls for States Parties to the Convention to punish any person who: procures, entices or leads away another person for purposes of prostitution, even with the consent of that person (article 1.1); exploits the prostitution of another person, even with the consent of that person (article 1.2); keeps or manages or knowingly finances or takes part in the financing of a brothel (article 2.1); or knowingly rents a premises for the purpose of prostitution (article 2.2).

The Trafficking Convention has a narrow focus on human trafficking, and seeks to eliminate all forms of prostitution, including voluntary prostitution. It fails to address trafficking for purposes other than sexual exploitation. This is evident in, for example, articles 16, 17 and 19 concerning the prevention of trafficking for prostitution and protection of persons trafficked into prostitution. The Trafficking Convention is weak in regard to establishing state obligations, specifying only that States need to “take or to encourage, through their public and private educational, health, social, economic and other related services, measures for the prevention

of prostitution and for the rehabilitation and social adjustment of the victims of prostitution” (article 16). Although the Convention highlights the need to pay particular attention to the trafficking of women and children, it makes no distinction between the two categories.

### **International Labour Organization conventions**

The International Labour Organization (ILO) has adopted almost 200 conventions since its inception in 1919. With specific regard to child labour, it adopted the Convention concerning Minimum Age for Admission to Employment (‘Minimum Age Convention’ No. 138)<sup>44</sup> in 1973 and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (‘Worst Forms of Child Labour Convention’ No. 182)<sup>45</sup> in 1999.<sup>46</sup> These are highly relevant since they deal with various forms of labour exploitation that affect trafficked children. Convention No. 138 aims to abolish harmful child labour, calling for parties to undertake “to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work” to an adequate level (article 1). It also states that age “shall not be less than the age of completion of compulsory schooling and...shall not be less than 15 years” (article 2.3).

Convention No. 182 reinforces the abolishment of harmful child labour. Notably, it recognizes that “child labour is to a great extent caused by poverty and...the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education” (preamble). In the short term, it seeks to ensure that States Parties “shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency” (article 1). In this context, Convention No. 182 emphasizes the importance of basic education as a measure to prevent child labour and as a means for reintegration, if possible, along with appropriate vocational training, of children who have been removed from the worst forms of child labour (article 7.c).

The ‘worst forms of child labour’ are defined in article 3 and include, among other things: (a) “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour...; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs... [and] (d) work which...is likely to harm the health, safety or morals of children.” It also requires States to establish or designate appropriate mechanisms to monitor implementation of the provisions giving effect to this Convention. It is consistent with article 1 of the Convention on the Rights of the Child in defining a child as a person under the age of 18 (article 2).

### **Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption**

This Convention, which entered into force in 1995, is the most important document governing the international adoption of children.<sup>47</sup> Informally known as the ‘Hague Adoption Convention’, it is designed “a) to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights as recognized in international law; b) to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children; [and] c) to secure the recognition in Contracting States of adoptions made in accordance with the Convention” (article 1). Moreover, it prohibits “improper financial or other gain from an activity related to an intercountry adoption”, noting that “only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid” (article 32).

### **Convention on the Elimination of All Forms of Discrimination against Women**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a comprehensive set of rights and corresponding state obligations to eliminate discrimination on the basis of gender. It requires all States Parties to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women” (article 6). CEDAW does not provide explicit provisions on girls, but includes them under the broader provisions on women.<sup>48</sup> The Convention is often interpreted as being applicable to both girls and adult women and thus as complementary to the Convention on the Rights of the Child. Given that gender-based discrimination is often identified as one of the major root causes of trafficking, CEDAW is an important legal instrument.

### **International guidelines and recommendations**

International guidelines and recommendations have been developed to enhance a coordinated international response to child trafficking. They include the following:

- United Nations High Commissioner for Human Rights, ‘Recommended Principles on Human Rights and Human Trafficking’ and ‘Recommended Guidelines on Human Rights and Human Trafficking’ (2002)
- Office of the United Nations High Commissioner for Refugees, *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum* (1997)
- UNICEF, *Guidelines on the Protection of the Rights of Child Victims of Trafficking* (2006)
- International Organization for Migration, *The IOM Handbook on Direct Assistance for Victims of Trafficking* (2007)
- United Nations Economic and Social Council, *Guidelines on Justice for Child Victims and Witnesses of Crime* (2004)

- United Nations Economic and Social Council, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005)

These guidelines are based on international human rights instruments and serve as a platform for developing policies and practices, taking into account local circumstances, constraints and resources.<sup>49</sup>

The UNICEF guidelines set standards for good practice in anti-trafficking processes and in plans to identify, protect and reintegrate children who have been trafficked.

The Council of Europe Convention on Action against Trafficking in Human Beings is also of relevance to countries in South Asia. The Convention, which entered into force on 1 February 2008, is open for signature and ratification by Member States of the Council of Europe, non-Member States that participated in its development (Canada, the Holy See, Japan, Mexico and the United States of America) and the European Community. It is open for accession by other States.

The Convention on Action against Trafficking in Human Beings covers a broad range of measures, including: a) prevention and cooperation; b) protection and promotion of the rights of victims; c) substantive criminal law; d) investigation, prosecution and procedural law; and e) international cooperation and cooperation with civil society. The Convention contains law enforcement as well as victim protection provisions, and applies to all forms of trafficking, "whether national or transnational, whether or not connected with organized crime."<sup>50</sup>

Special provisions for children are included throughout. The preamble recognizes that "all actions or initiatives against trafficking in human beings must be non-discriminatory, [and] take gender equality into account as well as a child-rights approach."<sup>51</sup> Article 5 calls upon States Parties to "take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them." The Council of Europe Convention represents an important step towards preventing and addressing child trafficking, and is noteworthy for its goal of global ratification.

## REGIONAL CONVENTIONS AND STRATEGIES

In South Asia, a number of factors increase vulnerability to trafficking, particularly for children. These include poverty, discrimination, violence against women and children, early marriage, weak legislation and poor enforcement of laws.<sup>52</sup> In an attempt to combat trafficking in human beings, the countries of South Asia have entered into several regional agreements. Three of the most prominent are:

- SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)
- SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia (2002)
- South Asia Strategy Against Commercial Sexual Exploitation of Children and Child Sexual Abuse (2001).

The two Conventions noted above were elaborated under the South Asian Association for Regional Cooperation (SAARC), an economic and political organization.



The association was established in December 1985 by Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. In April 2007, Afghanistan became its eighth member. The two conventions were adopted by the Governments of Bangladesh, Bhutan, India, Maldives, Pakistan and Sri Lanka in 2002. Nepal ratified both instruments in 2005. Afghanistan automatically became a signatory to the conventions when it became a member of SAARC.

### **Convention on Preventing and Combating Trafficking in Women and Children for Prostitution**

After five years of consultations, this Convention was adopted by the Governments of Bangladesh, Bhutan, India, Maldives, Pakistan and Sri Lanka in January 2002. Nepal ratified the Convention in 2005.<sup>53</sup> Afghanistan adopted the Convention upon joining SAARC. The Convention is the first regional treaty dealing specifically with trafficking. Article 2 stipulates that its purpose is to promote cooperation in order to prevent, interdict and suppress the trafficking of women and children; to repatriate and rehabilitate victims of trafficking; and to prevent the use of women and children in international prostitution networks, particularly where SAARC countries are the countries of origin, transit or destination. The Convention lists state obligations for the prevention and prosecution of trafficking and protection of victims.

The Convention defines trafficking as “the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.”<sup>54</sup> Prostitution is defined as “the sexual exploitation or abuse of persons for commercial purposes.”<sup>55</sup> It also defines “persons subjected to trafficking” as “women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means.”<sup>56</sup>

The definition of trafficking is beneficial as it encompasses trafficking both within and between countries. The Convention covers both prevention and protection mechanisms that, although limited in their scope, have the capacity to safeguard or restore the rights of trafficked persons and those vulnerable to trafficking. Article 8 covers several preventive measures including: sensitizing law enforcement agencies and the judiciary to trafficking issues; undertaking bilateral cooperation measures; exchanging information between States Parties; supervising employment agencies that recruit women and children; focusing prevention and development initiatives on known trafficking source areas; and promoting awareness of trafficking and its underlying causes in the media, including the harm of projecting negative images of women.<sup>57</sup>

However, the focus of this Convention in terms of trafficking is limited to women and children who are trafficked for the purpose of sexual exploitation in prostitution. It does not cover men who are trafficked for the same purpose, or persons who are trafficked for reasons other than sexual exploitation. Notably, even though the Convention

mentions children, South Asian countries tend in practice to neglect trafficking of boys for sexual exploitation when implementing national laws and policy responses to trafficking.<sup>58</sup> This highlights the shortcomings of the SAARC Convention on Trafficking – it does not contain special provisions for responding to trafficked children. The requirements set out in the ‘Palermo Protocol’ and the Recommended Principles and Guidelines on Human Rights and Human Trafficking issued by the Office of the United Nations High Commissioner for Human Rights stress the importance of providing for the special needs of persons who have been trafficked, especially children. Since children are often re-trafficked when they return to their homes or after leaving protective homes, it is important to adopt measures to ensure the safety of rescued children.<sup>59</sup>

Article 9 outlines the obligations of States with regard to the care, treatment, rehabilitation and repatriation of trafficked persons. Under this provision, States Parties must work out the modalities for repatriating trafficked persons to their country of origin; establish suitable provisions for the care and maintenance of those who have been trafficked across borders, including provision of legal services and health care; establish protective homes for rehabilitation of trafficked persons; and make available legal counselling, employment and health services. It also asserts that States may authorize non-governmental organizations (NGOs) to set up such protective homes and ought to encourage them in their prevention, intervention and rehabilitation efforts. However, the article does not elaborate on the provision of legal assistance; nor does it mention issues such as closed courts for hearing cases, or providing evidence in camera. Neither does it mention that repatriation should be voluntary and based on the safety of trafficked persons and their families. For this reason, most members of SAARC do not recognize the right of trafficked persons to legal assistance.<sup>60</sup>

### **Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia**

The Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia was adopted by the Governments of Bangladesh, Bhutan, India, Maldives, Pakistan and Sri Lanka in January 2002. Nepal and Afghanistan ratified the Convention in 2005<sup>61</sup> and 2007, respectively. Article 4.3 (a) affirms that States Parties shall ensure that appropriate legal and administrative mechanisms, social safety nets and defences are always in place to protect the child from any form of discrimination, abuse, neglect, exploitation, torture or degrading treatment, trafficking or violence.

Article 5 (d) outlines States’ obligations to strengthen relevant SAARC bodies dealing with child welfare in order to formulate and implement regional strategies and measures for the prevention of intercountry abuse and exploitation, including the trafficking of children for sexual, economic or other purposes. The significance of this Convention is that it does not limit the purposes of trafficking to sexual exploitation. It draws clear connections with the Convention on the Rights of the Child and addresses children’s survival, protection, development and participation rights. It also

underscores States' obligation to uphold the best interests of the child as a principle of paramount importance in all actions concerning children (articles 3.1, 3.3 and 3.4).

### South Asia Strategy

In November 2001, the Governments of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka met in advance of the Second World Congress against Commercial Sexual Exploitation of Children to develop the South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse.

The seven countries endorsed and committed to the implementation of the following regional approaches related to legislative reform and law enforcement.

The South Asia Strategy was the product of a three-day discussion among children and government representatives, international agencies and NGOs on how to combat sexual exploitation of children in South Asia.<sup>62</sup> The Strategy highlights a number of related issues, including trafficking, HIV and AIDS, the vulnerability of particular groups, poverty, discrimination and low birth registration. On trafficking, the Strategy states:

#### BOX 5

#### BILATERAL COLLABORATION FOR RESCUED TRAFFICKED CHILDREN

In 2006, the Governments of Bangladesh and India requested assistance from UNICEF to strengthen efforts related to the rescue, recovery, repatriation and reintegration of children who had been trafficked between the two countries. The UNICEF Regional Office for South Asia (ROSA), in collaboration with local offices in both countries, initiated a rapid assessment of the processes and mechanisms in place for identification, withdrawal, registration, family tracing, interim care, cross-border transfer and placement of the trafficked children. The assessment paid particular attention to the protection and well-being of children while in the care of governments and non-governmental organizations (NGOs).

The assessment found that the rescue-to-reintegration process was slow, taking from several months to as long as several years for each child. It also revealed the following:

- There is no standard repatriation protocol used by all stakeholders.
- The process is complex and problematic in both countries. Some Bangladeshi children remained in care in India, for periods of up to several years, as witnesses for the prosecution of traffickers.
- The quality of care for children in shelter homes varies considerably in both countries. No caregiving facilities operate under internationally accepted minimum standards of quality care, although the need for such standards is recognized by most NGO shelter administrators.
- None of the organizations in either country were found to be conducting a full assessment prior to reintegration of family and community protection concerns, and there are no regulations in place that require such an assessment. As a result, many children are returned to inappropriate environments, resulting in cases of abuse and re-trafficking. NGOs and government institutions are aware of the problem, and some are taking steps to mobilize community-based groups to support and protect reintegrated children.

Following the rapid assessment, a meeting was held in December 2006 to bring together government representatives from both countries. Participants reviewed the findings and identified issues to be addressed to strengthen and expedite the mechanisms of rescue, recovery, repatriation and reintegration.

After the bilateral meeting, the governments of the two countries developed draft plans of action. At a second meeting, hosted by the Government of India in Goa (India) in June 2007, a draft joint plan of action was formulated. The joint plan aims to develop simple, standard and effective procedures and practical actions to expedite the process, enhance the care and protection of children, and ensure that the best interests of children are paramount in all actions taken on their behalf. At the meeting in Goa, the Government of India had also presented a road map highlighting the repatriation process and the need to agree on a time frame for each administrative process.

It is notable that the draft joint plan is framed by the Convention on the Rights of the Child. It also integrates the technical recommendations from several significant documents on the protection of trafficked children<sup>i</sup> and details actions to be taken, responsible parties/authorities and a time frame.

The draft joint plan of action includes these initial steps:

- Establish national and state task forces responsible for overseeing the process and monitoring the cases of individual rescued children.
- Develop a flow chart of rescue-to-reintegration activities, detailing stakeholder responsibilities and a time limit for each action.
- Create protection/risk assessment guidelines and procedures.
- Establish mechanisms to simplify and expedite the legal process, such as: fast-track courts and video testimony; minimum standards of care, protection and reintegration; case management for individual children; and capacity-building of stakeholders.

“Trafficking in girls and boys for commercial sexual exploitation is a widely recognised [form of] abuse in South Asia. While ensuring that the right to migration is not hindered, efforts are being promoted to combat it, such as through the SAARC Convention on Trafficking. These mechanisms need regular review and revision to ensure that they are meeting the challenge.”<sup>63</sup>

The Strategy includes a number of proposals covering protection, legislation and implementation, prevention, recovery and reintegration, cooperation and capacity-building, and child and youth participation.

Among them are the following:

- Develop and implement national plans of action (NPAs) that are based on consultations with children
- Create legal frameworks consistent with the Convention on the Rights of the Child, CEDAW and the ‘Palermo Protocol’
- Provide child rights training for relevant officials
- Maximize opportunities for early childhood development
- Invest in community initiatives
- Strengthen community support services
- Establish regional networks
- Foster capacity development in relation to the NPAs
- Create partnerships with children and young adults.

The plan aims to develop a checklist for victim identification and a shared database on missing, kidnapped and trafficked children. For registration of trafficked children following rescue, it provides for the use of a standardized form for police, and for state and central repositories of information on registered victims. In order to address the challenges of collecting family information from children, the plan prescribes training in child-friendly interview procedures and the provision of trained interviewers who speak the same language as the rescued children. It calls for strengthened family tracing through the use of protocols and guidelines for interviewing families and communities, as well as training for police and NGO outreach workers.

The draft joint plan of action also calls for expediting the procedures for confirming nationality and providing travel documentation to rescued children. To this end, it recommends the development of uniform standard operating procedures to be used by the governments of both countries. It specifies strengthening the processes and follow-up support for children through newly developed guidelines and procedures that emphasize active community participation in the reintegration process.

When the plan was drafted in June 2007, the Governments of Bangladesh and India strongly encouraged immediate action. Since that time, national and state technical meetings have helped to operationalize the plans. In late 2007, the national Government of Bangladesh and the state government of West Bengal, India, both formed task forces to oversee the rescue-to-reintegration process. Flow charts detailing responsibilities and a time frame for the complex process have been developed. These will be transformed into standard operating procedures that will be formalized by government order. Through a series of technical workshops, Bangladesh has developed minimum standards for reintegration.

A working group has developed, with UNICEF assistance, guidelines for reintegration practice. The guidelines are subject to government approval and will be used to train government and NGO social workers. UNICEF ROSA and its partners are developing a system of administrative and procedural case management of rescued children by government authorities and NGOs. Further support will be provided to develop guidelines and training materials for child-friendly interviewing and for collecting information on family identity. The preparation of standardized guidelines and protocols for family tracing and guidelines on protection/risk assessment and promising practices is also anticipated.

Since 2006, the stakeholders in Bangladesh and India have emphasized the need for action. Although harmonizing and expediting the rescue-to-reintegration process is a challenging long-term activity, this robust start is very much due to the enthusiasm and support provided by the governments and NGOs in both countries. As the joint plan of action is finalized and implemented, it is anticipated that increasing numbers of children in Bangladesh and India will be returned to their families and communities quickly and safely.

This box was written by John Frederick, a child protection specialist in South Asia. All information is based on informal sources.

**Note:**

<sup>i</sup> These include, among others: UNICEF, *UNICEF Guidelines on the Protection of Child Victims of Trafficking: Technical notes*, UNICEF, New York, September 2006; Dottridge, M. and UNICEF, *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, UNICEF Regional Office for CEE/CIS, Geneva, 2006; International Organization for Migration, *The IOM Handbook on Direct Assistance for Victims of Trafficking*, IOM, Geneva, 2007; and International Committee of the Red Cross, *Inter-agency Guiding Principles on Unaccompanied and Separated Children*, ICRC, Geneva, 2004.

Although not legally enforceable, the initiatives of the South Asia Strategy benefit children who are vulnerable to being trafficked for sexual exploitation. The breadth of the document and its vast number of empowering and rights-based strategies are significant developments. Furthermore, the Strategy addresses not only the distinct capacities and needs of children; it also adopts a comprehensive gender perspective by explicitly mentioning both girls and boys. A weakness of the Strategy is that it does not address trafficking for purposes other than sexual abuse and exploitation.

### **South Asia Forum on Violence against Children**

The South Asia Forum on Violence against Children was formed at ministerial level at the May 2005 South Asia Regional Consultation on the United Nations Study on Violence against Children in Pakistan. Commitments were made by the Governments of Afghanistan, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka in collaboration with civil society organizations and children's groups. During the meeting, the governments developed action plans to address violence against children, including trafficking. A secretariat was established to facilitate the exchange of resources and information, and to hold meetings at regional and ministerial level to monitor the forum's progress. The secretariat has a coordinator, at the time of writing hosted by the Government of Pakistan, and subsequently in the process of being transferred to the Government of Nepal. The post is expected to rotate among the members every two years.<sup>64</sup>

In September 2004, UNICEF sponsored a three-day meeting of South Asian governments, United Nations organizations and NGOs in Colombo. All eight South Asian countries participated in the gathering.<sup>65</sup> Government officials signed a five-point joint statement, agreeing that children in South Asia should have better protection from traffickers and other persons who sexually abuse children.

Child sexual exploitation and trafficking was also discussed during the South Asia midterm review of the Yokohama Global Commitments (Sri Lanka, September–October 2004) and during the South Asia Forum Regional Preparatory Consultation for World Congress III against Sexual Exploitation of Children and Adolescents (Nepal, August 2008).

### **OTHER REGIONAL INITIATIVES**

In the past few years, there have been innovative regional collaborations at the non-governmental level throughout South Asia. As part of the project 'Developing a rights-based approach for anti-trafficking actions in South Asia', the Kathmandu School of Law, in collaboration with the South Asian Law Schools Forum for Human Rights, undertook a research study on legislation and structures related to trafficking in three countries. The study, financed by the European Commission and Terre des Hommes, covers Bangladesh, India and Nepal. It focuses on rights-based preventive and legal measures to improve governance concerning trafficking in women and children at national and regional level.<sup>66</sup>

As a part of this initiative, a manual will be designed to help monitor how anti-trafficking measures affect human rights. The study will also be used to lobby for the harmonization of legal frameworks in the region, and for compliance with international obligations. It is hoped that the initiative will foster increased cooperation between governments.

In October 2002, the International Labour Organization/International Programme on the Elimination of Child Labour (ILO/IPEC) launched the second phase of a project called Trafficking in Children – South Asia (TICSA) Phase II, with the participation of Bangladesh, Indonesia, Nepal, Pakistan, Sri Lanka and Thailand. (The first phase covered research, consultation and analysis in preparation for the regional project.) The project aims to combat child trafficking for labour and sexual exploitation and to rehabilitate survivors. The parties include government agencies, employers, workers' organizations and NGOs. Project strategies include policy development, prevention, rescue, rehabilitation and reintegration.<sup>67</sup>

Another important regional initiative is the Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation in South Asia (YPP). The project engages child survivors of exploitation in combating rights violations through participation in peer-support programmes, public advocacy and community awareness campaigns. The project involves collaboration between international and national NGOs including ECPAT, Sanlaap in India, Maiti in Nepal and Aparajeyo in Bangladesh. Children and staff members from the three countries meet regularly to share experiences.<sup>68</sup>

The regional project on Children Previously Involved in Camel Racing in the United Arab Emirates involves governments, UNICEF and NGOs in Bangladesh, Mauritania, Pakistan and Sudan.<sup>69</sup> In 1990, the Government of the United Arab Emirates decided to stop using children as camel jockeys and to repatriate the children to their countries of origin. In 2005, the government instituted a ban on the use of children under the age of 18 in camel racing. Following an awareness-raising campaign, camel farm owners handed the children over to the authorities. Additional children were identified through a monitoring process, and were placed in shelter homes in the United Arab Emirates while their families were being traced. The governments of the children's home countries developed reintegration plans for the trafficked children and initiated awareness-raising activities on child trafficking. The project also sought to improve legislation and policy frameworks. UNICEF supported the governments in each country in capacity-building and provided technical support. The Government of the United Arab Emirates provided US\$2.7 million to fund the entire project, including reintegration of the children, and repatriated 1,000 children to their home countries over a period of two to three years.<sup>70</sup>



# 3 NATIONAL LEGISLATION AND POLICY RESPONSES

## NATIONAL LEGISLATION ON CHILD TRAFFICKING

### General observations

All countries in the region have ratified the Convention on the Rights of the Child. Afghanistan, Bangladesh, India, Maldives, Nepal and Sri Lanka have ratified the Convention's Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) and Optional Protocol on the involvement of children in armed conflict (OPAC). Bhutan and Pakistan remain signatories to both of these protocols.<sup>71</sup>

None of the countries has ratified the 'Palermo Protocol', although India and Sri Lanka are signatories.<sup>72</sup> National legal definitions of human trafficking vary widely from country to country, and few comply with the international definition as laid out in the 'Palermo Protocol'. As a result, 'trafficking in human beings' has different meanings in different countries. This limits the possibility of an effective approach based on regional and international cooperation.

Bhutan, India, Nepal, Pakistan and Sri Lanka have adopted laws that criminalize trafficking in human beings, and Bangladesh's Women and Children Repression Prevention Act of 2000 criminalizes trafficking in women and children. However, only Nepal, Pakistan and Sri Lanka have a legal definition of human trafficking.

Bangladesh, Bhutan, India, Pakistan and Sri Lanka have adopted laws that criminalize trafficking in children, specifically. However, only Bangladesh, India and Sri Lanka have a legal definition of child trafficking, and India's exists only in state law (the Goa Children's Act, 2003), and not in national law.<sup>73</sup> None of these definitions corresponds exactly to the definition in the 'Palermo Protocol'; rather they address particular aspects of child trafficking.

Afghanistan and Maldives have not yet developed laws against human or child trafficking.<sup>74</sup>

All of the countries have laws covering specific aspects of child trafficking. Particularly relevant is legislation regarding forced or bonded labour, child labour, sexual exploitation, adoption, early marriage and kidnapping. Some laws refer directly to trafficking, while others can be used to address situations of exploitation, including in the context of trafficking. The relevant legal provisions can be found in constitutional laws, labour codes, criminal codes and criminal procedure codes.

Birth registration laws have been passed and policies initiated in some countries, and are vital to anti-trafficking efforts. Since prostitution is illegal in some countries of South Asia, determining that a 'sex worker'

is a child is often the beginning of anti-trafficking efforts, preventing that child from being identified as an adult and therefore at risk of being criminalized. For example, in Bangladesh, the Birth Registration Project, launched in 2001, is supported by more recent legislation that makes birth registration compulsory. The standardized information collected under the project will help prevent child labour, trafficking and early marriage. It will also encourage school enrolment and make immunization more routine.

The prevailing approach in the region is to address child trafficking as a law enforcement and criminal justice issue. Laws contain few requirements for legal, social, psychological or other kinds of assistance to children who have been trafficked, or measures to ensure their empowerment and protection.

Another approach is to address trafficking in the context of sexual exploitation of women and children, or of women and girls. In some countries, this focus has drawn attention away from children who are trafficked for other forms of exploitation, and it may also neglect the trafficking of boys for sexual exploitation.

Throughout the region there is an absence of comprehensive national child protection laws operating at national and community levels to prevent trafficking, prosecute perpetrators and assist trafficked children. The legal age of majority for children and other age limits defining the child in specific contexts vary significantly in national legislation. The legal age of majority directly affects how stakeholders, particularly the police and courts, address children's needs, respect their ability to make decisions, and approach their innocence and accountability.

Also, some national frameworks grant different standards of service and protection for girls and boys. For example, boys may receive less legal protection from sexual exploitation than girls, or the minimum age of marriage may be lower for girls than for boys.

Penalties for child trafficking and other forms of child exploitation vary widely across the region as well as within some countries. For example, Bangladesh has enacted the death penalty for child trafficking, while other countries give lenient sentences for sexual exploitation of children. While harsh penalties may discourage trafficking, exploitation and abuse, they may also deter trafficked persons and witnesses from reporting these crimes. Survivors and witnesses alike may fear that the perpetrators, whom they may know, will be sentenced to death or lifetime imprisonment.

Legal protection for trafficked children remains insufficient across the region. None of the countries has a clear provision to protect trafficked persons from criminal prosecution or sanctions for offences committed in the context of the trafficking process. National legislation does not always recognize children who have been trafficked as victims, and in some national laws they may in fact be held accountable for offences committed as a result of being trafficked.

### Country-specific observations

**Afghanistan:** Afghanistan has no laws criminalizing child trafficking and lacks legal definitions of trafficking in human beings and child trafficking. However, a draft law on child trafficking was developed in 2007.

Provisions covering trafficking-related activities can be found in the Penal Code A.P. 1355 (1976), chapter 8, which prohibits adultery and pederasty.<sup>75</sup> Rape is defined as the act of violating the chastity of another person through violence, threat or deceit. The Code specifies aggravated circumstances for specific situations, such as if the victim is under the age of 18.<sup>76</sup>

According to Afghan judicial experts, a woman or girl who runs away from her family with a person who is not a relative can be charged with a crime equivalent to adultery or prostitution, and imprisoned.<sup>77</sup> Furthermore, interviews conducted by the International Organization for Migration (IOM) with Afghan provincial government employees and others suggest a public perception that the acts of running away, adultery and prostitution are synonymous. The terms are used interchangeably when discussing 'crimes' committed by women.<sup>78</sup>

Other items of legislation of relevance to child trafficking are the Afghan Constitution of 2004, which prohibits child forced labour (article 49)<sup>79</sup>, and the country's Penal Code. Among the trafficking-related acts prohibited under the Penal Code are child endangerment (article 358.1), kidnapping (articles 421 and 422), sexual assault (article 429) and forced labour (article 516).<sup>80</sup>

**Bangladesh:** Bangladesh has no laws on human trafficking in general, although there is a law on trafficking in women and children that includes specific provisions on children.

The Women and Children Repression Prevention Act 2000 contains separate sections on trafficking in women and children (defined in a 2003 amendment as persons up to the age of 16). The section dealing with trafficking in children establishes that "any person (who) brings in from abroad or sends out of the country or traffics or sends or buys or sells any child for any immoral or illegal purpose or takes possession of, keeps in his/her custody with the said purpose, s/he shall be liable for the punishment of death sentence or rigorous imprisonment for life and a cash fine in addition" (section 6 [1]).<sup>81</sup> However, this provision does not contain a clear, comprehensive definition of trafficking. The section criminalizes certain (but not all) acts that constitute the offence of

trafficking, but instead of linking the acts to the purpose of exploitation, it links the offences to "immoral or illegal" purposes. These purposes are not defined in the Act, nor are they defined in combination with other laws. Also, the fact that children are defined as persons under the age of 16 leaves children aged 16 and 17 – especially boys – without protection.

The Act is intended to provide more effective prosecution of the perpetrators of violence against women and children than existed previously. Section 20 sets out guidelines for the trial process, and a 2003 amendment provides for trials to be held in camera.<sup>82</sup> Section 31 deals with safe custody and gives discretion to the tribunal (i.e. the special tribunals across the country that were introduced as a provision of the Act) to place a child in safe custody at any point during the trial process.

The Act provides for alternative custodial care or 'safe houses' for trafficked persons to protect them from potential harm or threats from traffickers when they are giving evidence.<sup>83</sup> It also enables the establishment of special tribunals in every district to fast-track the prosecution of offences. For example, section 14 states that information in cases involving child victims should be published without disclosing their identities.<sup>84</sup> Although the Act allows the Tribunal to use the fine collected from an offender as compensation to the victim, it does not make compensation for victims mandatory; rather it leaves it to the discretion of the court "if it considers it necessary."<sup>85</sup>

The Suppression of Immoral Trafficking Act 1933<sup>86</sup> is another instrument for dealing with trafficking, although it is rarely used. This Act makes it illegal to bring women and girls into the country for the purpose of prostitution and provides for stringent penalties for forcing women and girls into prostitution.<sup>87</sup> It provides that no girl under 18 years of age may be engaged in prostitution.

The rights of children are protected in the Constitution of Bangladesh. Article 34 prohibits forced labour and article 28 (4) is unique in the country in allowing the State to make "special provisions" in favour of children.<sup>88</sup>

The Children's Act of 1974 provides penalties for cruelty to children, the use of children for begging, luring children into a brothel and other types of exploitation.<sup>89</sup>

Other relevant items of legislation are the Penal Code, the Child Marriage Restraint Act 1929, the Bangladesh Labour Code of 2006 and the Extradition Act 1974.

**Bhutan:** Legislation on trafficking and related issues is sparse, and there is no legal definition of human or child trafficking. The Penal Code of Bhutan 2004 (articles 154 and 155) criminalizes trafficking in persons, and article 379 criminalizes trafficking for sexual exploitation. Article 227 criminalizes child trafficking. Articles 379 and 380 define "trafficking for prostitution" as a first-degree offence if the trafficked person is below the age of 12, and a second-degree offence if the trafficked person is aged 12 to 18 (articles 380 b and c).<sup>90</sup>

Article 9 of the 2008 Constitution of Bhutan provides for principles of state policy, which is a feature of most constitutions of the SAARC member states. These principles are not enforceable, and are merely a call to good governance. Interestingly, article 9 (21) stipulates that the State shall provide free basic health care, in contrast to article 9 (17), which says that the State shall merely endeavour to take measures to ensure that women are free from abuse, discrimination and exploitation, both in the public and private spheres. Article 9 (18) says that the State shall endeavour to take measures to ensure that children are free from “all forms of discrimination and exploitation including trafficking, prostitution, abuse, violence, degrading treatment and economic exploitation.”<sup>91</sup>

Other legislation of relevance to child trafficking is the Labour and Employment Act 2007, which regulates minimum working ages and working conditions for children.

**India:** Article 23 of the Constitution prohibits traffic in human beings and all forms of coerced labour: “Traffic in human beings and begar<sup>92</sup> and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”<sup>93</sup>

The Immoral Traffic (Prevention) Act, 1956, the primary piece of legislation governing trafficking, focuses on those who procure persons (adults and children) for the purposes of prostitution. The intention of the Act is to limit or abolish trafficking in human beings for the purpose of prostitution as an organized means of living. Its objective is to criminalize and punish any third party, including brothel owners, keepers, managers and their assistants, who benefit from the exploitation of prostitution. The Act does not define trafficking, nor does it establish criminal penalties for trafficking. It does not directly criminalize commercial sex work, although it does criminalize a number of related activities (amendments were made in 1986 to widen the scope of the Act by covering all persons, whether male or female, who are exploited for commercial sexual purposes).<sup>94</sup>

Certain amendments have been proposed to the Immoral Traffic (Prevention) Act, to: widen its scope, raising the age of the child from 16 years to 18 years; focus on traffickers; prevent re-victimization of trafficked persons; and make its implementation more effective.<sup>95</sup> According to the Ministry of Women and Child Development: “the major amendments include deletion of section 8 [, which] provide[s] punishment for seducing or soliciting for purpose of prostitution[,] and section 20 [, which] relates to the removal of a prostitute from any place. Deletion of these sections ha[s] been proposed [in light of the] view that women and children involved in prostitution are victims of trafficking[,] and [that] booking under these sections re-victimize[s] them. The other major amendments include insertion of new sections that define trafficking in [persons in] line with the definition of trafficking in the Palermo Protocol. [They] establish punishment of pe[ople] involved in trafficking in [person]s and of pe[ople] who visit or are found in

a brothel for the purpose of sexual exploitation.”<sup>96</sup> The other amendments include constitution of a Central Authority well as [a] State Authority for the purpose of effectively combating the offence of “Trafficking in Persons” at central and state level. The Immoral Traffic (Prevention) Bill 2006 was introduced in Lok Sabha on 22 May 2006.<sup>97</sup> The Bill has been examined by the Parliamentary Standing Committee and the Report submitted on 23 November 2006. The Cabinet Note was submitted for Cabinet approval on 13 Sep[tember] 2007 and the decision of the Cabinet was to refer it to a Group of Ministers[,] which is holding a series of meetings on the subject.”<sup>98</sup>

There are no separate legal provisions specifically covering child trafficking at the national level.<sup>99</sup> The focus on the ‘immoral’ aspects of trafficking deflects attention from the abuse and exploitation that take place in the process of trafficking.

While Indian national law does not provide a definition of trafficking, one exists in the Goa Children’s Act 2003, and is applicable only to Goa. It states that “child trafficking means the procurement, recruitment, transportation, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.”<sup>100</sup> According to the Act, “‘Child’ means any person who has not completed eighteen years of age unless any other law in force specifies otherwise or unless otherwise indicated in specific provisions in this Act.” For example: “‘Child in case of child labour’, shall be a person who has not completed his fourteenth year of age.”

However, the Goa Children’s Act definition is not consistent with the definition provided in the ‘Palermo Protocol’. The Protocol stresses that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons,” even if this does not involve any of the means set forth in the definition of human trafficking.<sup>101</sup>

The Goa Act prohibits exploitation and abuse of children, with a particular focus on commercial sexual exploitation.<sup>102</sup> It authorizes airport authorities, border, railway and traffic police to report any cases of adults travelling with a child or children in suspicious circumstances, or any suspected cases of trafficking.<sup>103</sup> Anyone who exploits a child for commercial sexual purposes will be liable to pay a fine and serve a prison sentence of one year (in addition to any other penalty that is imposed by any other act in force).<sup>104</sup> Other relevant laws to address child trafficking are the Juvenile Justice (Care and Protection of Children) Act 2000, the Child Labour (Prohibition and Regulation) Act of 1986, the Bonded Labour System (Abolition) Act of 1976, and the Prohibition of Child Marriage Act, 2006, which replaces the earlier Child Marriage Restraint Act, 1929.<sup>105</sup>

**Maldives:** Maldives has no legislation on trafficking, nor does it have legal framework relevant to addressing child trafficking, child labour or sexual exploitation. Implementation of the Convention on the Rights of the Child is based on the 1991 Law on the Protection of the Rights of the Child 9/91, which is the main legal document on the rights of children.

Maldives has ratified the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and is also a member of the South Asia Coordinating Group Against Commercial Sexual Exploitation and Trafficking of Children and Women in South Asia.<sup>106</sup>

The Committee on the Rights of the Child has expressed concern about children's potential vulnerability to sexual exploitation due to the inadequate legal framework for preventing and criminalizing sexual exploitation. It has asserted that avoiding the criminalization of child victims is necessary to prevent and combat sexual exploitation of children in a more focused way.<sup>107</sup> The Government of Maldives is reviewing the Penal Code to include the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography.

**Nepal:** Article 29 of the Interim Constitution 2063 (2007) prohibits "traffic in human beings, slavery or serfdom."<sup>108</sup> In addition, article 22 (3) states "Every child shall have the right against physical, mental or any other form of exploitation. Any such act of exploitation shall be punishable by law and the child so treated shall be compensated in a manner as determined by law."<sup>109</sup>

The Human Trafficking and Transportation (Control) Act, 2064 of 2007 addresses human trafficking for any purpose, but its provisions concentrate on the trafficking of women across borders for sexual exploitation. It criminalizes to sell or buy a person for any purpose and to force someone into prostitution, with or without financial benefit.<sup>110</sup> It also prohibits transportation of a person for the purpose of exploitation, defined as taking anyone from "his/her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostility, allurements, influence, threat, abuse of power" and keeping him or her in one's possession or taking the person "to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation."<sup>111</sup>

National legislation does not define child trafficking or include provisions on the phenomenon. However, reports indicate that the definition of trafficking and transportation for the purpose of exploitation in the Human Trafficking Control Act, 2007, is also included in the Child Rights (Promotion and Protection) Draft Bill 2007, under consideration at the time of the writing of this report.<sup>112</sup>

The Children's Act 1992 was formulated to protect the rights of children. Among its provisions are those dealing with the general needs of the child, such as health and education, and aimed at protecting children from

various forms of exploitation. This includes exploitation in the context of begging and labour, sexual exploitation and the sale of girls as religious offerings to temples.<sup>113</sup>

Nepal has regulations and rules establishing in camera hearings for cases involving children, including those involving trafficking or rape.<sup>114</sup> In cases of rape and paedophilia (which is regarded as a form of rape),<sup>115</sup> attendance at legal proceedings is limited to legal counsel, the alleged offender, the child, the child's parents or guardian the police and designated court employees.<sup>116</sup>

However, in its Concluding Observations in 2005, the Committee on the Rights of the Child expressed its concern about sexual exploitation and trafficking of children in Nepal. It noted the inadequate legal protection of children against sexual exploitation and trafficking, as well as the inadequacy of prosecution efforts and provisions for the protection and recovery of children. The Committee also noted with concern that "the identity of child offenders, rape victims or children in difficult circumstances continues to be disclosed in the media...which is a clear infringement of article 16 of the Convention."<sup>117</sup>

In Nepal, the statute of limitations for reporting rape and other sexual offences is a mere 35 days, which limits the possibility of those seeking justice for such offences.

Other items of legislation of relevance to child trafficking are the chapter on human trafficking in the Country Code 1963, the Foreign Employment Act 2042 (1985) and amendments, the Labour Act 1992, the Child Labour (Prohibition and Regulation) Act 2000 and the Open Border Agreement 1950.

The statutes in the Country Code 1963 chapter on human trafficking apply until a more specific law is enacted on the topic.<sup>118</sup> The Human Trafficking and Control Act, which came into being in 2007, therefore supplants various provisions of this chapter. However, some provisions remain valid under the Country Code, such as the offence of separating a minor or person of unsound mind from his or her lawful guardian or parents. The Country Code forbids a person from taking anyone out of the country with the intention to "sell" him or her. It prescribes punishment of up to 10 years' imprisonment when the perpetrator is caught before the sale, and up to 20 years when the perpetrator is caught after the sale. This is a general provision that covers the sale of all persons, including children. The chapter also states "no person shall separate or entice any minor below the age of 16 from the legal guardian without consent," and prescribes punishment of up to three years' imprisonment, or up to a 500-rupee fine, or both.<sup>119</sup>

The Foreign Employment Act 1985, developed to regulate migration for employment abroad, is also intended to prevent trafficking of women. The Act requires employment agencies that recruit workers for foreign jobs to be licensed<sup>120</sup> and lists the countries that may recruit Nepalese workers. In 1992, the Act was amended to prohibit foreign employment of women and minors without the permission of the government and their guardians

(see section 11 of the amended Act).<sup>121</sup> In an attempt to control trafficking in women, however, the Act has limited women's opportunities for travel and migration.

**Pakistan:** Article 11 of the Pakistan Constitution prohibits slavery, forced labour and trafficking in human beings.<sup>122</sup>

Section 2 of the Prevention and Control of Human Trafficking Ordinance, 2002 criminalizes human trafficking, which is defined as "obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person, notwithstanding his implicit or explicit consent, by the use of coercion, kidnapping, abduction, or by giving or receiving any payment or benefit, or sharing or receiving a share for such person's subsequent transportation out of or into Pakistan by any means whatsoever for any of the purposes mentioned in section 3." The purposes listed in section 3 of the Ordinance are exploitative entertainment, slavery, forced labour and adoption, and a comprehensive focus establishes responsibility for such crimes.<sup>123</sup> According to section 2f, 'exploitative entertainment' means all activities in connection with human sports or sexual practices or sex and related abusive practices.

Further, the ordinance defines a child as "any person who has not attained the age of eighteen years" (section 2b).

The general punishment for trafficking is imprisonment, which may extend to seven years, and liability for a fine. This rises to 10 years and a fine if the crime involves a child, and 14 years and a fine if it involves the abduction or kidnapping of a child (section 3).

The definition of trafficking does not mention internal trafficking, which therefore leaves children and adults who are trafficked within the country without protection. The definition complies with the 'Palermo Protocol' with regard to defining the crime as independent of a person's consent if illicit means are applied. However, a separate definition of child trafficking, independent of the use of illicit means, is not offered.

The Ordinance also outlines prevention, protection and prosecution strategies. On protecting trafficked persons, it states that the courts should, where appropriate, direct the government to provide women and children who have been trafficked with shelter, food and medical assistance.<sup>124</sup> In relation to foreign trafficked persons, it states that the government should allow witnesses to stay in Pakistan for as long as the court deems necessary.<sup>125</sup> Additional measures designed to facilitate the prosecution of traffickers include the establishment of special trafficking courts and training of relevant officials, judges and law enforcement personnel.<sup>126</sup>

Most child abuse cases have been registered under the Offence of Zina (Enforcement of Hudood) Ordinance 1979.<sup>127</sup> In 2006, however, the Pakistan National Assembly and Senate passed a landmark bill and amended the Hudood Ordinance, with the Protection of Women (Criminal Laws Amendment) Act of 2006.<sup>128</sup> The Act makes a number of progressive amendments.

Now, rape may only be prosecuted under secular law (i.e. the Pakistan Penal Code), with secular laws of evidence such as forensic evidence and witness accounts being considered.

Prior to November 2006, laws in Pakistan made little distinction between rape and extramarital sex. Women were forced to obtain the testimony of four male Muslim witnesses in order to prove they had been raped. If they were unable to do so, they were tried under the Hudood Ordinance 1979 for the offence of extramarital sex.<sup>129</sup> Women who had been abducted could also be prosecuted for extramarital sex, as it was sometimes presumed that in such instances sexual intercourse had taken place.<sup>130</sup> The stipulated punishment for extramarital sex was death by stoning. The Ordinance prohibited various activities related to trafficking, such as: inducing a woman to go from a place with the intent that she may be forced or seduced into illicit intercourse, or knowing it is likely that she will be; kidnapping or abducting a person so that they may be "subjected to the unnatural lust of another person," or knowing that it is likely that the person will be buying or selling a person for purposes of prostitution or illicit intercourse; and taking away, concealing, or detaining a woman with the intent that she may have illicit intercourse with any person.<sup>131</sup>

Under the Zina Ordinance, it was difficult for victims, particularly women and girls, to prove that an offence had been committed. In the case of sexual abuse, a confession by the accused or the testimony of four male Muslim witnesses had to be provided, and a sexually abused girl would risk facing accusations of having committed adultery.<sup>132</sup> In the past, the near impossibility of meeting the burden of proof for sexual assault meant that even those girls who had been subjected to the kinds of abuse that the laws find particularly egregious were vulnerable to being convicted under this Ordinance.

The 2006 Act makes amendments and inserts a number of sections that could be used to prosecute traffickers under the secular law, which calls for secular rules of evidence. The new section 367A of the Pakistan Penal Code makes "kidnapping or abducting in order to subject [a] person to unnatural lust" an offence. This is punishable by death or rigorous imprisonment for a term that may extend to 25 years, as well as a fine. The new section 371A creates the secular offence of "selling [a] person for purposes of prostitution, etc," with a punishment of imprisonment that may extend to 25 years, and a fine. Indeed, it also creates the offence of "buying a person for prostitution etc." through section 371B, which entails similar punishment. Section 469A makes "enticing or taking away or detaining with criminal intent a woman," an offence punishable by seven years' imprisonment.

The new Act has been watered down since its inception as a Bill, however. The crime of intercourse between a man and a woman outside of marriage (the individuals may be single or married to others) may be prosecuted as "fornication" under the 2006 Act, or as Zina under the Hudood Ordinance of 1979. In the latter

case, the testimony of four male Muslim witnesses is still required.

Other laws of relevance to child trafficking are the Prevention and Control of Human Trafficking Rules 2004, the Employment of Children Act 1991, the Bonded Labour System (Abolition) Act 1992 and the Bonded Labour System (Abolition) Rules 1995.

**Sri Lanka:** Human trafficking and child trafficking are prohibited under Ordinance No. 2 of the Penal Code and the Penal Code (Amendment) Bill of 2005. The latter repeals section 360c of the old Penal Code and replaces it with a new section that contains a broad definition of trafficking and stipulates that any person shall be guilty of trafficking if the person:

“(a) buys, sells, barter or instigates another person to buy, sell or barter any person or does anything to promote, facilitate or induce the buying, selling or bartering of such person for money or other consideration; (b) recruits, transports, transfers, harbours or receives any person or does any other act by the use of threat, force, fraud, deception or inducement whether with or without the consent of such person for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation; or (c) recruits, transports, transfers, harbours or receives a child or does any other act with or without the consent of such child for the purpose of securing forced or compulsory labour or services, slavery, servitude or the removal of organs, prostitution or other forms of sexual exploitation.”

In addition to section 360c, several provisions of the Penal Code criminalize acts relating to the sexual exploitation of children. Overall, the 2005 amendment of the Penal Code has largely enhanced children’s legal protection from trafficking, exploitation and abuse, and includes increased protection from Internet-based sexual abuse. However, it does not exempt trafficked children from criminal liability for offences committed in relation to their trafficking situation.<sup>133</sup> Thus, children who have been trafficked and have been forced or otherwise induced to commit an offence can be held legally accountable.

Other items of legislation of relevance to addressing child trafficking in Sri Lanka are: the Constitution; the National Child Protection Authority Act 1998; the Employment of Women, Young Persons and Children Act (No. 47) 1956; the Children and Young Persons Ordinance; the Brothels Ordinance; the Vagrants Ordinance; the Houses of Detention Ordinance No. 26 of 1955; and the Educational Ordinance.

The Brothel Ordinance criminalizes keeping, managing, acting and assisting in the management of a brothel. The Vagrants Ordinance’s provision on causing or encouraging a girl to be seduced or prostituted applies only to girls under age 16, leaving all boys and all girls between 16 and 18 years of age vulnerable to prostitution. Child rights groups in Sri Lanka have expressed concern that

the Ordinance is wrongly used to assign legal accountability to trafficked children for crimes committed during the period of trafficking and exploitation.

## NATIONAL POLICY RESPONSES

A comprehensive national response to child trafficking requires cooperation between various government ministries, other national institutions, non-governmental organizations (NGOs) and civil society. This is essential to ensure that national policies are integrated and complementary and that resources are used effectively.

There are a number of comprehensive policy tools and structures relating to human and child trafficking in the countries of South Asia. These include plans of action at the national and regional level and specialized national bodies. Countries that do not have a national plan of action (NPA) on child trafficking in particular often have a range of NPAs in place to protect children from exploitation, including sexual exploitation, labour exploitation, violence and abuse. This study has identified existing plans covering the following areas:

- Trafficking in persons, trafficking in women and children and/or child trafficking
- Sexual abuse and exploitation of children, with reference to trafficking of children for sexual exploitation
- Sexual exploitation of women and children (in the same category)
- Child labour
- Children.

It is important to assess and evaluate the plans and to determine gaps. This will facilitate proper coordination and full implementation of measures and activities included in the NPA that ensure that all children are protected – those who have been trafficked and those who are at risk. This study has not assessed the effects of different action plans, but suggests that a general action plan on children might ensure the broadest possible protection. National action plans relating to children, as prescribed in the general measures of implementation of the Convention on the Rights of the Child, cover the full spectrum of child protection concerns. Comprehensive plans include measures for children’s empowerment and the prevention of all forms of violence, exploitation and abuse. They also reaffirm the close links between child protection issues.

### National action plans

Bangladesh and Pakistan have developed NPAs on human trafficking.<sup>134, 135</sup> However, although Bangladesh’s plan is titled the National Anti-Trafficking Strategic Plan for Action (2006), its content focuses on women and children.<sup>136</sup>

Afghanistan, Bangladesh, India, Nepal and Sri Lanka have NPAs on trafficking of women and children. The majority of the plans focus on trafficking for exploitation in prostitution and other forms of sexual exploitation.

Afghanistan, Bangladesh and Sri Lanka have NPAs on child trafficking. The Bangladesh plan focuses on sexual

abuse and exploitation, including trafficking, while Sri Lanka's plan emphasizes combating trafficking in children for sexual and labour exploitation. Pakistan has a plan of action on child abuse and exploitation in general. Several NPAs on trafficking in human beings have a strong focus on child trafficking, notably those of Bangladesh, India, Nepal and Sri Lanka.

**Afghanistan:** Afghanistan has an NPA on child trafficking, developed in response to reports on child trafficking and national and regional commitments to combat the phenomenon. The plan adopts a comprehensive approach to protecting children from trafficking. This includes protective and preventive measures focusing on the creation of national laws consistent with the Convention on the Rights of the Child, and national strategies against trafficking that include education and information for children. Recovery measures include social, medical and psychological assistance. Measures are included for enhanced collaboration, coordination and capacity-building of institutions and professionals. Partnership-building with children and youth is emphasized, with a focus on the inclusion and participation of children and the evolving capacities of the child.<sup>137, 138</sup>

**Bangladesh:** The government has implemented various plans of action and initiatives on children, and on trafficking in children and women, at national and local level.<sup>139</sup> The National Plan of Action against Sexual Abuse and Exploitation of Children including Trafficking outlines an anti-trafficking strategy. It stipulates various measures to be taken, such as establishing a mechanism for coordinating regular reviews of progress, and developing a programme to prevent child trafficking to coordinate the rescue, repatriation and reintegration of trafficked children and to punish perpetrators.<sup>140</sup>

The National Anti-Trafficking Strategic Plan for Action, launched in February 2006, focuses on the trafficking of women and children. The Plan was developed through a consultative process involving government agencies and civil society organizations. It includes capacity-building of government officials and emphasizes the need to place trafficking issues within other government planning objectives.

The government has adopted the National Plan of Action for Children 2004–2009, which addresses issues such as education and nutrition. It also covers protection from abuse, exploitation and violence, including trafficking, within and outside Bangladesh. The Plan includes elements on prevention, recovery and reintegration as well as the prosecution of perpetrators. To achieve the broad goals of protecting children, the Plan of Action highlights the importance of addressing the root causes of abuse, exploitation and violence; developing and implementing policies, programmes and legal frameworks to prevent and protect children from further abuse; and ensuring the participation of children from different socio-economic groups in planning, implementing, monitoring and evaluating protection policies and programmes.<sup>141</sup>

The Time Bound Programme towards eliminating all worst forms of child labour by 2015 is under revision.<sup>142</sup> This will also have an impact on child trafficking, since many children are trafficked into harmful labour situations.

**Bhutan:** No national action plans have been developed to address human trafficking. Bhutan has a child-related policy – the National Plan of Action for Children – which is incorporated into the Ninth Five Year Development Plan (2002–2007). Bhutan is currently operating under its Tenth Five Year Plan (2008–2013), which states that trafficking is a “growing problem.”<sup>143</sup>

Several national consultations on violence against children and women have been organized by the National Commission for Women and Children, with the participation of stakeholders from the government, NGOs and the media. One such consultation, in mid-2008, involved the national legal task force, including representatives from the judiciary, police and NGOs, and aimed at finalization of the Acts concerning justice for children



and adoption. An earlier consultation (in 2007) involved the Council for Religious Affairs and discussed the protection of children in monastic institutions. In 2007, the National Commission for Women and Children filed the first case of child trafficking in the country. Submitted to the Women and Child Protection Unit of the Royal Bhutan Police, the case involved a child who had been trafficked for domestic work. It generated widespread media coverage and intense public discussion. The police and the National Commission successfully prosecuted the perpetrators, who received three-year sentences. Although the sentences could have been more severe, the case was nevertheless a wake-up call for Bhutan to intensify mechanisms to prevent and address the trafficking of women and children<sup>144</sup> and to realize that traffickers could be held to account.

**India:** A policy of particular relevance to child trafficking is the National Plan of Action for Children, revised in 2005. It includes chapters on child survival, development, protection and participation and also covers mobilizing

resources and implementation and monitoring of the plan.<sup>145</sup> One of its objectives is to “protect all children against neglect, maltreatment, injury, trafficking, sexual and physical abuse of all kinds, pornography, corporal punishment, torture, exploitation, violence, and degrading treatment.”<sup>146</sup>

The Plan includes sections on sexual exploitation and child pornography (chapter 13) and child trafficking (chapter 14). It states a goal of stopping the “sale of children and all forms of child trafficking, including for sexual purposes, marriage, labour, adoption, sports and entertainment, and illegal activities like organ trade, begging and drug peddling.” Its strategies include addressing the root causes of poverty, sensitizing authorities to the issues, preventing trafficking of boys and girls, creating central and state authorities with an exclusive mandate to deal with trafficking, and ratifying the ‘Palermo Protocol’.<sup>147</sup>

The Report and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children,



1998, which is part of the National Plan of Action,<sup>148</sup> highlights that the existing legal framework can allow the re-victimization of exploited women and children, and rarely results in punishment of the perpetrators.<sup>149</sup> It has been reported that it is the sex workers, as opposed to brothel keepers or landlords, who have been arrested under the provisions of the Immoral Traffic Prevention Act. The 1998 Report and Plan of Action proposed a review of the current laws. It strongly endorsed legal reforms that ensured those who had been exploited were not re-victimized and that “all the exploiters, not excluding clients, traffickers, parents/guardians and others” who colluded with them would be punished.<sup>150</sup> According to the Ministry of Women and Child Development, the objective of the Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children, 1998, is to reintegrate the women and children who have been exploited into society. The Ministry has issued guidelines to the states for implementation of the NPA.<sup>151</sup>

The Government of India is formulating a more comprehensive trafficking policy and programme. It is finalizing the Integrated Plan of Action to Prevent and Combat Human Trafficking, with special focus on children and women. This is being developed by the Ministry of Women and Child Development and the Ministry for Trafficking (tasked with coordination), in collaboration with the Ministry of Home Affairs, the Ministry of Labour, National Human Rights Commission, the National Commission for Women and UNICEF.<sup>152</sup> Four consultations – three regional and one national – were organized to gather suggestions from various stakeholders, including state government representatives, prominent NGOs and experts on child trafficking and child protection.<sup>153</sup>

In the 2003 National Charter for Children, the government committed itself to protect children from economic exploitation and all forms of abuse.<sup>154</sup> Its provisions are largely consistent with India’s commitments under the Convention on the Rights of the Child. The Charter provides that the “State shall provide protection to children from economic exploitation and from performing tasks that are hazardous to their well-being.”<sup>155</sup> It further stipulates that states within India must move towards a total ban on all forms of child labour.

Regarding trafficking, the Charter states “All children have a right to be protected against neglect, maltreatment, injury, trafficking, sexual and physical abuse of all kinds, corporal punishment, torture, exploitation, violence and degrading treatment.”<sup>156</sup> It says the State will take legal action against those who commit such violations and will also work with communities to set up mechanisms to identify, report, refer, investigate and follow-up on such acts, while respecting the dignity and privacy of the child.<sup>157</sup> There is also an elaborate commitment to partner with communities. This is aimed at drawing up plans to identify, care for, protect, counsel and rehabilitate affected children, and to ensure that they are able to recover physically, socially and psychologically and to be reintegrated into society.<sup>158</sup>

**Maldives:** Maldives does not have an action plan on child trafficking. The National Plan of Action for Children (2002–2012) has been formulated to implement the Plan of Action from ‘A World Fit for Children’, the outcome document of the 2002 United Nations General Assembly Special Session on Children. The Plan commits the sectors to adopting a strategic focus on health and nutrition, immunization, basic education, children with special needs and rehabilitation of children in especially difficult circumstances, and explores new opportunities in all areas of child protection in collaboration with partners. Children, including child representatives from the atolls, were given the opportunity to take part in discussions and consultations for enhancing the protection of children.

The Government of Maldives Seventh National Development Plan (2006–2010) deals with child protection and family services in its chapter on social protection. The related section proposes strategies to address child protection issues through the development of an institutional framework to provide services and multisectoral support. This includes confidential medical care, counselling and follow-up to ensure recovery and reintegration; improved data collection, analysis and research; and strategies for advocacy, capacity-building and strengthening legal mechanisms for providing justice for children as victims, witnesses or offenders.<sup>159</sup>

With the establishment of the Child and Family Protection Authority in 2006, the government aimed to fulfill state obligations more diligently and to identify issues that needed closer examination. Trafficking and commercial sexual exploitation of children (CSEC) have been identified as issues that need more attention. However, due to the lack of reliable facts and figures, and with few reported cases, it was felt that the issue needed further attention. A national policy to protect children from abuse and exploitation will be developed and technical assistance will be provided from ECPAT International.<sup>160</sup>

In addition to the assistance from ECPAT International, Maldives has accepted an invitation from the SAARC Technical Committee on Preventing and Combating Trafficking of Women and Children for Prostitution to build the capacity of agencies in the region in relation to trafficking.<sup>161</sup>

**Nepal:** Nepal has two action plans relevant to child trafficking. The National Plan of Action for Combating Trafficking in Women and Children for Commercial Sexual Exploitation adopts a human rights-based approach to trafficking, emphasizing the need to advocate for children’s rights to education, survival and development within anti-trafficking strategies.<sup>162</sup> The Plan addresses all forms of child trafficking, including for sexual purposes, marriage, labour, adoption, sports, entertainment and illegal activities, such as organ trade, begging and drug peddling.

The National Plan of Action for Children, Nepal (2004/05–2014/15) was developed in 2004 by the Ministry of Women, Children and Social Welfare. Adopting a comprehensive approach to child development and protection, the Plan includes a strategy to protect children from sexual harassment, exploitation and trafficking. It also deals with other issues including health, education and combating child labour. The Plan was developed through extensive consultation with civil society organizations, government bodies and children throughout the country.<sup>163</sup>

**Pakistan:** Two national action plans are relevant to child trafficking. In December 2005, the government launched the National Action Plan for Combating Human Trafficking. It outlines strategies for preventing human trafficking and prosecuting traffickers. To facilitate its implementation, the Plan establishes inter-ministerial committees and promotes coordination among government ministries, law enforcement bodies, NGOs and civil society.<sup>164</sup>

A National Plan of Action against Sexual Abuse and Exploitation of Children was developed in 2001 and revised in 2004–2005 through a collaborative effort between the government, UNICEF, NGOs and children. A child-friendly version of the draft was prepared and distributed to all the children who participated in the process, which culminated in a two-day national consultation held in Islamabad in January 2005 to finalize the NPA. The focal agency was the National Commission for Child Welfare and Development.<sup>165</sup>

The Plan covers prevention, protection, recovery and rehabilitation of trafficked children.<sup>166</sup> Among the prevention strategies promoted are measures designed to strengthen the role of the media in providing high-quality and ethically obtained information on all aspects of child sexual exploitation. The Plan also calls for the incorporation of children's rights and personal health and protection into school curricula, and for increasing awareness among public officials, law enforcement and communities.

The Plan's protective strategies include measures to review legislation, strengthen enforcement of child protection laws, produce a uniform code of conduct for shelters, train law enforcement officials and monitor regional trafficking networks. Its recovery and rehabilitation strategies include: training officials on the psycho-social recovery and rehabilitation of abused and exploited children; developing training packages for health-care and social welfare providers; establishing support services through a pilot project in Islamabad; creating a referral system for access to services; and developing an information centre on child sexual abuse and exploitation.<sup>167</sup>

**Sri Lanka:** Two NPAs are relevant. These are the National Plan of Action for the Children of Sri Lanka 2004–2008 and the National Plan of Action to Combat Trafficking in Children for Sexual and Labour Exploitation, developed subsequent to the country's ratification of ILO Convention No. 182.

With regard to child trafficking, exploitation and abuse, the aim of the national plan for children is to eradicate child sexual abuse and ensure the protection of children from all forms of abuse, negligence, exploitation and violence.

The child protection section of the Plan includes provisions to address the situation of abused children, children with disabilities, children affected by armed conflict, children living and working on the street, children of migrant mothers, children in conflict with the law and children in institutional care. Programmes have been identified to address the rights and special needs of these groups of children.

The NPA to combat trafficking lists strategies in four areas of intervention: legal reform and law enforcement; institutional development and research; prevention and rescue; and rehabilitation and reintegration. The law reform and enforcement intervention is further broken down as follows: ratifying relevant international instruments; reviewing laws to ensure they conform to international standards; ensuring the effective enforcement of laws and policies; ensuring that officials and agencies are sensitized to child trafficking issues; endorsing a justice system that focuses on the best interests of the child; and incorporating child rights as fundamental rights within the Constitution.

To strengthen institutional capacity, the NPA endorses the promotion of child rescue efforts within relevant ministries and organizations, as well as better coordination among them. Included in the prevention strategies are measures designed to increase awareness of children's involvement in labour exploitation, promote family cohesion and alleviate poverty. Incorporating child rights into school curricula is one measure designed to promote awareness. Community-based development initiatives, compulsory education, vocational training, promotion of child participation and NGO microcredit schemes are all endorsed as means to alleviate poverty. Among the protection strategies the Plan promotes are: facilitating early intervention; ensuring that shelters follow established guidelines; ensuring that an individual needs-based approach is adopted; encouraging community and family involvement in rehabilitation; and preventing re-victimization through the creation of a more comprehensive reintegration system.<sup>168</sup>

The analysis highlights the need to promote synergy between all action plans on children's rights at the national level and to ensure that child trafficking is included in NPAs on children, where they exist. Notably, some of these plans have a clear rights perspective – linking child trafficking with other forms of exploitation, abuse and violence – and have been developed through a consultative process with children and communities. But developing a good plan is not enough; it is important to ensure that sufficient resources are allocated for implementation and monitoring and for evaluating its impact on children.

## National bodies addressing trafficking

South Asia lacks comprehensive national child protection systems to prevent trafficking, prosecute perpetrators and assist trafficked children. The countries of the region adopt different approaches to establish specialized national bodies or structures to plan, coordinate and implement governmental policies on human trafficking and child trafficking. In some countries, different ministries share the responsibility for implementing the various national plans that cover child trafficking and other forms of exploitation, such as NPAs on children and NPAs on sexual abuse and exploitation. This makes coordination of efforts challenging.

**Afghanistan:** The Commission to Counter Child Trafficking was established in 2003 as a forum for consolidating policy advice across sectors, with the Ministry of Labor, Social Affairs, Martyrs and Disabled serving as the lead ministry. To aid coordination and sharing, the Commission consisted of representatives from the ministries of Defense, Foreign Affairs, Justice, Interior, Frontier Affairs and National Security, as well as from international NGOs and United Nations organizations. UNICEF served as the secretariat and provided technical support. The Commission no longer exists, but a Child Protection Action Network has been established to cover all child protection issues, including trafficking.<sup>169</sup>

Afghanistan also has a task force and a national action plan on child trafficking. But implementation of the Plan is complicated, due to resource limitations and daunting challenges in exerting control over some provinces.<sup>170</sup> In addition, the work of these national bodies and mechanisms is hampered by the absence of a legal basis that defines or criminalizes trafficking in human beings and child trafficking.<sup>171</sup>

Institutions with a mandate to monitor children's rights, such as the Afghanistan Independent Human Rights Commission (AIHRC), can also participate in implementing anti-trafficking plans on children. This permanent and independent commission is mandated by the Afghan Constitution that was adopted on 5 January 2004. Its mandate includes promoting, protecting and monitoring children's rights.<sup>172</sup> The children's rights unit of AIHRC has identified child trafficking as one of the most important concerns facing children in Afghanistan.<sup>173</sup>

**Bangladesh:** In 2001, the Ministry of Women and Children's Affairs initiated the Coordinated Programme to Combat Child Trafficking, to work with various organizations on prevention, rescue, repatriation and reintegration of trafficked children. Through this project, a national Inter-Ministerial Committee<sup>174</sup> was established to monitor and provide technical support to child trafficking programmes. The Committee is chaired by the Ministry of Home Affairs and, as of August 2008, had established anti-trafficking units in 64 districts. The Committee holds monthly meetings to review reports on trafficking, and also monitors enforcement of related laws. Active cooperation between the government and civil society organizations is ongoing, and there are

various monitoring structures at district and local levels. Special police units in each district compile statistics on trafficking cases.

The National Plan of Action on Sexual Abuse and Exploitation of Children including trafficking (2002–2007)<sup>175</sup> was developed by the Ministry of Women and Children's Affairs, the National Council on Children and the Bangladeshi Shishu Adhikar Forum (a network of NGOs) with support from UNICEF and the International Labour Organization (ILO). The NPA was developed through a process that involved the active participation of children (see Box 8, page 44). Headed by the Ministry of Women and Children's Affairs, an NPA Implementation and Monitoring Committee was established, comprising of the Core Group (those responsible for developing the NPA), a number of government ministries and departments and NGOs. The Committee guides the work of four subcommittees, each of which has terms of reference and a yearly workplan.

The National Plan of Action for Children 2004–2009 is put into effect by the NPA Implementation and Monitoring Committee, headed by the Ministry of Women and Children's Affairs.<sup>176</sup>

The lead agencies addressing child trafficking are the NPA Implementation and Monitoring Committee and the anti-trafficking Inter-Ministerial Committee, supported by the Ministry for Women and Children's Affairs and the Ministry of Home Affairs, respectively.

**India:** The Ministry of Women and Child Development is responsible for coordinating actions to formulate and implement legislation, policies, plans of action and programmes in the area of child trafficking.<sup>177</sup> According to the NPA, the Ministry of Women and Child Development is responsible for:

- Establishing national commission for the protection of child rights, including the setting-up of a state commission
- Setting up a central coordinating authority for combating trafficking for commercial sexual exploitation, including the establishment of state authorities (proposed)
- Creating other needs-based mechanisms for child protection.

The NPA will be linked to the states, so that they can develop or amend their plans of action as necessary.<sup>178</sup> The Ministry of Women and Child Development is also responsible for monitoring the Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children.<sup>179</sup>

The Ministry has constituted the Central Advisory Committee for Prevention and Combating Trafficking of Women and Children for Commercial Sexual Exploitation, which is chaired by the Secretary of the Ministry. Its members are: ministerial representatives; governments of states that constitute source, transit or destination areas of trafficking; prominent NGOs and international

organizations working to combat child trafficking; the National Human Rights Commission; the National Commission for Women; the National Commission for Protection of Child Rights; law enforcement agencies; and experts.<sup>180</sup>

Under India's Eleventh Five Year Plan (2007–2012), the Ujjawala Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Reintegration was launched in December 2007. It includes specific components for prevention, rescue, rehabilitation, reintegration and repatriation of trafficked women and children. The Ministry of Women and Child Development has also formulated an integrated child protection scheme.<sup>181</sup> Its purpose is to provide an environment for the safe development of children in need of care and protection and for children in conflict with the law. The scheme is intended to improve child protection services at all levels of government. It also aims to raise public awareness about child rights and support evidence-based monitoring and evaluation systems.

In 2001, the government announced the establishment of a National Commission for the Protection of Child Rights to study all matters pertaining to children's constitutional and legal rights.<sup>182</sup> The Commission was set up in 2007 and had just begun its work at the time of writing this study.

**Nepal:** The focal point for human trafficking is the Ministry of Women, Children and Social Welfare.<sup>183</sup> It is responsible for mobilizing all concerned institutions, facilitating coordination and carrying out legal reforms. Since 1998, the Ministry has set up rehabilitation homes for rescued girls in order to reintegrate them into society.<sup>184</sup> An institutional mechanism consisting of government officials, United Nations organizations and NGOs has also been established to address trafficking and child sexual exploitation at national, district and municipal level.

A National Task Force on Trafficking has been established with representatives of the ministries of Women, Children and Social Welfare; Home Affairs; Labour and Transport; Health, Education and Sports; and Law and Justice; along with representatives from parliamentary management, the National Planning Commission, the police, NGOs, ILO and UNICEF.<sup>185</sup>

A National Rapporteur on Trafficking has been appointed under the National Human Rights Commission. Nepal is the only country in the region with such a body. The Rapporteur's office investigates, monitors and reports on trafficking and coordinates anti-trafficking initiatives at all levels.<sup>186</sup>

In 2004, the Nepalese police established service centres for women and children in 15 districts to enhance anti-trafficking law enforcement, public awareness and counselling. The centres provide training on methods of supporting trafficked women and children to local police and NGOs, and the government plans to create similar centres in four more districts. The government

has identified 26 high-priority districts as sources of trafficking and has established anti-trafficking vigilance committees in them.<sup>187</sup>

**Pakistan:** The Inter-Ministerial Committee on Human Trafficking, Smuggling and Illegal Immigration is charged with developing a comprehensive policy to prevent trafficking.<sup>188</sup> Pakistan also has an anti-trafficking unit in the Federal Investigation Agency, the main government organ dealing with cross-border human trafficking. The Agency has regional offices throughout Pakistan. Three of its wings are relevant to human trafficking: the Immigration Wing administers immigration checkpoints and records offences under the Passport Act and Emigration Ordinance; the Technical Wing provides technical and scientific support and opinions during enquiries and investigations conducted by the Agency; and the Legal Branch provides legal guidance during investigations and enquiries and prosecutes cases in court.<sup>189</sup>

In addition, the National Commission for Child Welfare and Development is the umbrella organization responsible for implementing the National Plan of Action against Child Sexual Abuse and Exploitation, which also addresses some elements of trafficking.<sup>190</sup> The Commission has also established a subgroup on child sexual exploitation and abuse in the National Expert Committee on Social Welfare and Protection of Rights.<sup>191</sup> Finally, a National Child Protection Centre has been set up in Islamabad, and there are plans to replicate this model in other areas of the country.

**Sri Lanka:** The main actor in Sri Lanka for addressing child trafficking is the National Child Protection Authority, established in 1999 to combat child abuse, including trafficking, commercial sexual exploitation, forced labour and illegal adoption.<sup>192</sup> It functions under the Ministry of Child Development and Women Empowerment and works in cooperation with 10 ministries, provincial councils, local authorities and the private sector. The Authority develops national policies and programmes and monitors implementation of all aspects of child protection mechanisms.<sup>193</sup>

The Authority's Anti-Trafficking Surveillance Unit consists of a multidisciplinary team that collaborates with foreign law enforcement agencies and INTERPOL (the International Criminal Police Organization). In addition, police help desks for women and children, headed by female police officers, have been established throughout the country. Help desk personnel assist in investigating reports and present cases to court, giving priority to cases of child abuse.<sup>194</sup>

In the past, the Authority has also trained police and other professionals on communicating with children in a child-friendly manner. The police have been trained in conducting surveillance, identifying and mapping locations and perpetrators of sexual and other crimes against children, collecting and analysing information for effective legal enforcement and follow-up, referring information to the appropriate authorities and monitoring cases.<sup>195</sup>

## International and regional cooperation

Since human trafficking often moves beyond state borders, effective responses require regional and international cooperation between countries of origin, transit and destination. Bilateral collaboration has been initiated within the region and with countries in other regions. Many bilateral agreements focus on law enforcement issues and mutual legal assistance on repatriation of persons who have been trafficked. As described previously, the countries of South Asia have entered into several regional agreements on human trafficking. The most prominent of these are the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse. A task force has been set up to monitor the progress of both agreements in the region.

Bangladesh and Pakistan have signed bilateral agreements with the Government of the United Arab Emirates for the repatriation of children previously involved in camel racing.

Bangladesh and India have developed a draft plan of action and a draft road map to strengthen mechanisms and expedite the rescue-to-reintegration process. The plan of action aims to enhance the care and protection of affected children and to ensure that their best interests are at the centre of all actions taken on their behalf.<sup>196</sup>

## Multi-stakeholder cooperation

A variety of institutions and organizations with diverse mandates and approaches – governments, United Nations organizations and NGOs – are active in anti-trafficking initiatives in South Asia. In some countries, coordination bodies representing each of these sectors have been set up to aid the implementation and monitoring of NPAs. The forms of coordination vary among the countries. Despite these initiatives, effective coordination at national, regional and international levels remains a challenge. Below are some examples of multi-stakeholder cooperation in the region.

**Afghanistan:** A number of organizations working in child rights, including UNICEF, helped develop the Children's Manifesto for Afghanistan and its accompanying Framework for Action.<sup>197</sup> The Manifesto emerged from a series of consultations and workshops with children around the country. The Framework lists key strategies recommended for use by all partners.<sup>198</sup>

Areas of action identified in the Manifesto are: encouraging child participation in policy development; promoting peace; developing an adequate response to violence against children, early marriage, child trafficking and danger from the physical environment; protecting children from hazardous labour; establishing vocational training for children living and working on the street; improving access to education for all children; and creating spaces for dialogue among children. In addition, the children highlighted their commitment to promoting equality among

all children, 'good works' for the future of Afghanistan and mutual respect between children and adults. Included in the strategies outlined in the Framework are measures designed to eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and women's empowerment, protect vulnerable children and promote children's rights.<sup>199</sup>

**Bangladesh:** UNICEF has been heavily involved in anti-trafficking initiatives, particularly a project to reintegrate children trafficked for work in camel racing. UNICEF is developing standards for institutions that care for trafficked children, which include training in psychosocial care and protection for service providers.<sup>200</sup>

Other collaborative activities include a large education programme for working children (Basic Education for Hard to Reach Urban Children), and work with the government to create an independent child rights commission. The UNICEF-supported Empowerment and Protection of Children and Women Project aims to create an environment in which rural adolescent girls and adolescents involved in sex work can voice their concerns and take part in the decisions that affect their lives. The focus is on developing confidence, self-esteem, negotiation skills, problem-solving capacity and awareness of risky behaviour.<sup>201</sup> UNICEF and Save the Children facilitated children's and young people's participation in developing the National Plan of Action Against Sexual Abuse and Exploitation of Children including Trafficking, and the National Plan of Action for Children.

**India:** The Ministry of Women and Child Development, in collaboration with the United Nations Office on Drugs and Crime (UNODC) and the International Organization for Migration (IOM), has organized workshops and consultations with the private sector to further public-private partnerships and corporate social responsibility aimed at preventing trafficking and assisting in the rehabilitation and rescue of trafficked persons. In March 2008, the Ministry, in collaboration with UNODC and the apparel and garment industry, spearheaded by Gap Inc. (an American clothing and accessories retailer based in California), organized a workshop on the prevention of child trafficking for labour exploitation. As a follow-up to the meeting, a think tank was constituted, including representatives from line ministries, chambers of commerce, the garment industry and national and international agencies.<sup>202</sup>

**Nepal:** In 1998, the United Nations Task Force on Trafficking was set up in Nepal under the coordination of the United Nations Development Programme (UNDP). In March 1999, the Office of the High Commissioner for Human Rights Trafficking Programme identified Nepal as one of the key countries for intervention, which led to two national workshops. Pilot projects have been initiated in cooperation with the Task Force.<sup>203</sup>

**Pakistan:** In June 2008, the Inter-Agency Group on Child Trafficking was formed by 10 agencies, including United Nations organizations and NGOs working on child trafficking. Regular meetings have been held and

joint advocacy conducted, which have led to successful outcomes such as the amendment of the Human Trafficking Ordinance in 2002.

**Sri Lanka:** With funding from the International Labour Organization/International Programme on the Elimination of Child Labour (ILO/IPEC), the National Child Protection Authority has produced a documentary on abuse, prostitution and trafficking of children, and has aired several television dramas on child trafficking for employment and sex tourism. It also publishes *COMBAT*, a quarterly newsletter that informs stakeholders about developments in efforts to combat these issues. The Authority has also provided child protection training, including components on commercial sexual exploitation of children, to a variety of government and NGO professionals. This work has been supported by international organizations such as VSO (Voluntary Service Overseas), the International Society for the Prevention of Child Abuse and Neglect, Save the Children, ILO/IPEC and UNICEF.<sup>204</sup>

### NGO and CSO contributions

Numerous non-governmental and civil society organizations across the region work on child trafficking and exploitation. Each organization has its own focus; for example, some specialize in providing assistance to trafficked children while others concentrate on prevention and advocacy.

**India:** Non-governmental organizations are highly active in addressing trafficking, with efforts responding to all phases of the trafficking process. Some NGOs focus on rescue and rehabilitation while others work on prevention in border areas. For instance, the Impulse NGO Network, which operates in the north-east of India, focuses on prevention, protection, policing and prosecution. The Network has links with local and state NGOs and community-based organizations throughout the region.<sup>205</sup> Other NGO networks include Action against Trafficking and Sexual Exploitation of Children, the Campaign against Child Trafficking and the National Initiative for Child Protection.<sup>206</sup>

**Bangladesh:** Collaboration with NGOs is an important component of the government's policy. The coordination committee, which includes representatives from government organizations and NGOs, participates actively in monitoring and implementing programmes to combat trafficking.

Some of the main NGOs in the country working on related issues are: the Bangladesh National Women Lawyers' Association, INCIDIN Bangladesh (Integrated Community and Industrial Development Initiative), RIGHTS Jessore, Ain o Sailash Kendra and Aparajeyo-Bangladesh. Many human rights and legal aid NGOs are prosecuting traffickers and providing legal assistance to survivors. They also step in to complement government initiatives in running care homes and promoting the social welfare of trafficked persons.<sup>207</sup> Many of these NGOs are members of the regional network Action against Trafficking and Sexual Exploitation of Children

(ATSEC), a coalition of 15 NGOs working on the prevention of trafficking and sexual exploitation.<sup>208</sup>

**Nepal:** Many NGOs are working at the grass-roots level on anti-trafficking issues. The major organizations are Maiti Nepal and Child Workers in Nepal Concerned Center (both affiliates of the ECPAT network), ABC Nepal, the Women's Rehabilitation Centre (WOREC), Saathi, HimRights (Himalayan Human Rights Monitors), the Centre for Legal Research and Resource Development, Shakti Samuha and the Legal Aid and Consultancy Centre.<sup>209</sup> Many of them are members of two NGO networks, the National Alliance against Girl Trafficking and the Alliance against Trafficking in Women in Nepal, which have been active in promoting awareness in highly affected areas.<sup>210</sup>

**Pakistan:** The Pakistan Pediatric Association holds annual conferences on child sexual abuse and commercial sexual exploitation of children. It has organized consultations on children's exposure to online pornography in some provincial capitals, geared towards Internet service providers and café owners, media practitioners and government officials. The Association has also developed and disseminated rules on safe Internet use by children.<sup>211</sup>

The Lawyers for Human Rights and Legal Aid provides assistance and referral services to persons who have been trafficked. It also works for the repeal of the Offence of Zina (Enforcement of Hudood) Ordinance, which in many cases has further victimized girls who have experienced sexual assault and exploitation. The group has also published research on trafficking in women and children into Pakistan.

Non-governmental organizations have also conducted research on sexual violence and related issues.<sup>212</sup> A noteworthy report conducted in 2005 by the Pakistan Rural Workers' Social Welfare Organization and Save the Children Sweden brought attention to the exploitation of Pakistani children who were trafficked for use in camel racing.<sup>213</sup>

# 4 CONCEPTUAL APPROACHES AND PROMISING PRACTICES

## CURRENT CONCEPTUAL APPROACHES

The legal and policy responses to human trafficking in South Asia mirror the complex nature of trafficking. Beyond the formal international definition, a variety of definitions and beliefs exist at national levels relating to what constitutes human trafficking and the appropriate strategies for preventing and responding to it. As a result, governmental and non-governmental actors often approach human trafficking from different perspectives. These perspectives are also reflected in the international instruments used to shape national laws and policies. Each approach focuses on a different dimension of human trafficking and broadly addresses:

- Trafficking as a law enforcement and criminal justice issue
- Movement in the trafficking process
- Trafficking for the purpose of sexual exploitation
- Trafficking as a labour issue
- A human rights-based approach to trafficking.

While each of these dimensions provides important insight into crucial aspects of human trafficking, approaching the subject from a single perspective does not adequately address its full complexity and dynamics, or the specific rights, needs and vulnerabilities of children.

### **Trafficking as a law enforcement and criminal justice issue**

Almost all international instruments and national policies addressing trafficking in human beings include provisions for law enforcement and criminal justice. The emphasis here is on criminal law reform and prosecution based on the assumption that punishing perpetrators has a deterrent effect and therefore the potential to curb trafficking. Governments must ensure effective prosecution of human trafficking as a crime as well as a human rights violation. Yet many initiatives that focus on law enforcement and criminal justice have limited protection measures.

When the focus is on stopping criminal behaviour rather than on protection, trafficked persons may not be recognized. They may even be held accountable for offences they committed as a result of being trafficked. Avoiding criminal liability or receiving assistance in the country of destination may also depend on a person's willingness to cooperate with the authorities. However, children may be particularly reluctant to testify against their abusers or even to report them. They may fear stigma or legal consequences or threats from traffickers against themselves or their family members. They may also be unwilling to forgo any income that is needed to repay debts or to meet family expectations.

The police and other law enforcement officials are the main actors when a government's focus is on controlling crime. Although it plays an important role in combating trafficking, an exclusive emphasis on law enforcement omits other necessary actors and elements that need to be included in order to address trafficking comprehensively. It also places a significant amount of power in the hands of law enforcement personnel, which in some cases may allow corruption, harassment and other forms of police misconduct.

The effectiveness of the law enforcement approach to counter child trafficking is yet to be determined. Across the region, very few cases of child trafficking have been brought before the court, and the rate of successful prosecution for those few cases that have been tried is low. It is unclear why this is so; possible reasons include the complexity of anti-trafficking legislation and providing evidence of trafficking, insufficient legal protection of the person who has been trafficked, inefficient law enforcement and poor identification of cases.

Focusing on the criminal process of trafficking by placing responsibility on the traffickers hides the extent to which States are also responsible for trafficking. Such a focus fails to address the underlying causes that allow trafficking to occur, and fails to provide services to victims or to assign responsibility to governments.

### **Movement in the trafficking process**

A number of countries focus their anti-trafficking efforts on movement in the trafficking process, in particular where movement occurs across international borders. In this context, anti-trafficking initiatives focus on strengthening immigration laws and enhancing border control. However, a single focus on movement may lead to other important areas of protection being overlooked. Mandatory systems of repatriation fail to take into account whether children's safety would be jeopardized upon their return to their countries of origin. Protection measures tend to focus on short-term assistance for trafficked children prior to their return to their countries of origin. In addition, violations of children's socio-economic and political rights in origin and destination countries and during movement are rarely considered.

Strengthening and enforcing immigration laws may also increase the vulnerability of children and young people who emigrate. An alternative approach might be to develop migration policies that recognize that people who choose to emigrate in search of better life opportunities are at risk of trafficking, abuse and exploitation, and that help them to migrate more safely. This could reduce children's vulnerability to trafficking

and help prevent child exploitation and abuse in the context of movement or migration.

### **Trafficking for the purpose of sexual exploitation**

Many efforts to address trafficking in human beings focus on trafficking for the purpose of sexual exploitation of women and children. Although highly important, this focus has promoted the perception that trafficking is always or is predominantly linked to sexual exploitation. This limited perspective can draw attention away from children who are trafficked for other forms of exploitation, and children who are sexually abused in the course of migration or in other circumstances. Furthermore, this approach tends to focus on women and girls, neglecting the trafficking of boys for sexual and other forms of exploitation.

In some countries, anti-trafficking legislation that focuses on controlling or criminalizing prostitution places emphasis on trafficking for purposes of sexual exploitation. The laws often focus on the immorality of the sexual activities rather than on the exploitation as a human rights violation.

### **Trafficking as a labour issue**

When human trafficking is approached as a labour issue, efforts to address it most often focus on eliminating the demand for cheap labour, and advocacy for the enforcement of labour standards and improved work conditions. However, labour regulations apply only to the formal sector; they do not protect people working in the informal sector, in which children who have been trafficked are most likely to be exploited.

Some children are under pressure to work, or choose to work in order to contribute to their family income. In such cases, labour regulations that are too restrictive may increase children's vulnerability by limiting legal work opportunities and pushing them into unsafe and exploitative situations.

### **A rights-based approach to child trafficking**

A rights-based approach to child trafficking places the child at the centre of all interventions. Responses to child trafficking need to go beyond viewing it simply as a sub-issue of trafficking in human beings. A comprehensive approach that places the human rights of children at its core is needed to effectively address all forms of abuse and exploitation of children, including trafficking. Such a framework is designed to safeguard children's rights at all times and to prevent child exploitation and abuse in all contexts. It empowers the child to make informed choices, recognize risky propositions and face the future with confidence – even after an exploitative experience has occurred.

To safeguard the rights of children, laws, policies and programmes that have a specific focus on children are required. Child-specific provisions need to be integrated into existing initiatives against trafficking in persons. This requires that all actors engaged in these initiatives are made aware of children's rights, needs and vulnerabilities.

International standards for children's rights need to be implemented and trafficking in adults and children made a priority for action. In addition, it is critical to ensure that governments, as the key duty bearers, elaborate and implement provisions in national law to protect children's human rights, particularly children who are victims of crime. The best interests of the child should be given primary consideration in all actions. A rights-based approach acknowledges girls and boys as social agents with the rights and capabilities to be consulted on matters that affect them, to express their opinions freely, and to seek, receive and impart information. Listening to children and learning from their experiences and recommendations are key to designing and implementing effective preventive and protective measures.

A rights-based approach also requires addressing the root causes of trafficking, including discrimination and other social, economic and cultural factors, and ensuring that approaches to trafficking are sensitive to children from different age groups and backgrounds. Responses should take into consideration the evolving capacities of the child and attempt to fully ensure the child's survival and development. As the primary caregivers, families also need protection and support.

## **PROMISING PRACTICES: PREVENTION, PROTECTION AND EMPOWERMENT**

A comprehensive rights-based approach to child trafficking must encompass prevention, protection and empowerment measures built upon children's rights in accordance with the Convention on the Rights of the Child and other human rights instruments. These measures must be interrelated and mutually reinforcing. In this section, they will be explored by looking at promising practices from the eight countries of South Asia.

Without detracting from the significance of the promising practices undertaken by States in establishing anti-trafficking measures, one must bear in mind that they are based on the laws and policies of the respective States. They do not necessarily reflect the experiences of trafficked persons within those countries. A State's readiness to endorse a particular strategy may be greater than its readiness or capacity to implement the strategy. It should be noted that this study has not assessed the implementation of the practices described or their impact on children. The examples provided may not be universally representative or replicable, and the findings are not based on evaluations or broader impact assessments.

### **PREVENTION**

Preventing child trafficking is clearly an important component of a rights-based approach. Prevention programmes should investigate the social, cultural and economic conditions of the given context and identify particularly vulnerable groups. As noted previously, several underlying factors, including poverty and discrimination, make children vulnerable to trafficking. They must be addressed if trafficking is to be successfully combated.

It is important to recognize that the underlying causes, whether taken individually or collectively, amount to a denial of children's rights. Promoting and protecting child rights must therefore be at the heart of preventive measures. This includes ensuring access to information and education, empowering children to make informed choices and to protect themselves, and encouraging children to participate in the development of anti-trafficking initiatives. As a Terre des Hommes publication states:

"In order to prevent children from being trafficked in the first place, it is necessary to understand the motives that children have for leaving home, or that their families have for allowing them to leave. The right preventive strategy must be adapted to match the particular motives that people have. Similarly, efforts to remove children from the control of traffickers must be tailored to the specific circumstances that children find themselves in."<sup>214</sup>

Preventing child trafficking requires a range of strategies to address the diverse experiences of children within different trafficking situations. It is important to recognize the links between various forms of violence, abuse and exploitation, and to address them using a holistic approach that promotes a protective environment for children.

### **Centring the Convention on the Rights of the Child**

With the exception of Bhutan and Maldives, all the countries in South Asia have national plans of action (NPAs) that address child trafficking and that place the Convention on the Rights of the Child at the centre of all measures concerning children. The plans lay emphasis on the importance of preventing child trafficking, protecting children's human rights and promoting children's empowerment. Some examples:

**Nepal:** The Plan of Action for Combating Trafficking in Women and Children for Commercial Sexual Exploitation adopts a human rights approach to trafficking, emphasizing the need to advocate for children's rights to education, survival and development within anti-trafficking strategies. It promotes the establishment of policy, research and development strategies. Among its components are: promoting and asserting children's legal rights; social mobilization; training children to become trainers and youth leaders; improving media awareness; promoting reproductive health education; developing databases and referral systems; rescue and reintegration strategies, including counselling and free primary health care for rescued girls; promoting international strategies and cooperation; and monitoring and evaluation.

**Sri Lanka:** The National Plan of Action on Trafficking in Children deserves special mention because it promotes, among other things: revision of laws to ensure they conform with international standards; endorsement of a justice system that focuses on the best interests of the child and the establishment of juvenile courts; and incorporation of children's rights as fundamental rights in the Constitution.

The Plan also includes assessment and standardization of institutional procedures and improved coordination. In terms of prevention, it includes provision for incorporating children's rights into school curricula, promoting community-based approaches to poverty alleviation, expanding gender-sensitization programmes, and establishing a community-based monitoring system to identify at-risk children and traffickers.

### **Holistic approach**

A holistic approach involves developing a broad range of measures that go beyond prohibiting child trafficking. Such measures ought to address the links between child trafficking and exploitation, abuse, violence and discrimination. They should also promote cooperation between and among professionals working with children, such as medical personnel, social workers, teachers and law enforcement officials.

It is also important to assess existing plans and determine gaps in their coverage. Measures and activities need to be coordinated, integrated and fully implemented so that all children are protected – those who have been trafficked and those who are at risk.

**Bhutan:** Several national consultations on violence against children and women have been organized by the National Commission for Women and Children, with the participation of stakeholders from the government, non-governmental organizations (NGOs) and the media. One such consultation, in mid-2008, involved the National Legal Task Force (made up of representatives from the judiciary, police and NGOs), and aimed at finalization of the Acts concerning justice for children and adoption. An earlier consultation, in 2007, involved the Council for Religious Affairs and discussed the protection of children in monastic institutions.

**India:** The National Plan of Action for Children, 2005 includes a strategy for protecting children from neglect, maltreatment, injury, trafficking, sexual and physical abuse, pornography, corporal punishment, torture, exploitation, violence and degrading treatment. The strategy works by addressing the survival, development, protection and participation rights of children in difficult circumstances through the creation of an appropriate authority for child protection. The Plan of Action calls for the development of systems to collect data on the number and situation of children in especially difficult circumstances, and to track and monitor all interventions made for the benefit of those children. It also promotes intersectoral coordination and convergence of services for children.<sup>215</sup>

**Maldives:** The Unit for the Rights of the Child in the Ministry of Women Affairs and Social Security deals with all issues related to children's rights. The Unit offers counselling services to children (and parents) either at home or in the community, and assists abused, abandoned and neglected children.<sup>216</sup> In order to monitor the situation of children, a central database on related protection issues is being developed by the Ministry of Gender and Family.

In June 2008, a meeting was convened by the Children and Family Protection Authority to develop a national policy to address commercial sexual exploitation and trafficking of children. A strategy for policy development was agreed upon, and slated for translation into an action plan for 2008–2009. The strategy looks at ways of creating a favourable policy environment through advocacy and awareness-raising, and the development and implementation of the national policy. The coordination committee formed during the consultation will monitor progress towards combating commercial sexual exploitation of children.

## BOX 6

### BOYS, MEN AND MASCULINITY

Preventing child trafficking includes addressing the demand side of sexual exploitation, in addition to the supply of children for purposes of trafficking. Addressing demand must involve prosecuting those who purchase sexual services from children. Research on men and masculinity indicates that men's use of sexual violence is clearly tied to broader social norms related to manhood.<sup>i</sup> This suggests that any efforts to seriously reduce the purchase of sex by men and the incidence of sexual violence must be broadened, and will require changes in how societies and cultures view men's roles.

There are some examples in South Asia of programmes that engage boys and men in the prevention of sexual exploitation and sexual violence, such as the network Men's Action for Stopping Violence against Women (MASVAW) in India. In a similar way to organizations in other regions of the world, the network engages in mobilization efforts and campaigns that seek to change the social environment and social norms relating to gender, masculinity, sexuality and violence.<sup>ii</sup> Globally, relatively little research has focused on, or identified the differences between men who purchase sex from adult women (and men), and men who sexually exploit underage girls (and boys). More research is also needed to examine the potential links between the acceptance of child marriage and the sexual exploitation of girls.

#### Notes:

<sup>i</sup> Ricardo, C. and G. Barker, 'Men, Masculinities, Sexual Exploitation and Sexual Violence: A literature review and call for action', working draft, MenEngage and Instituto Promundo, July 2008, p. 2.

<sup>ii</sup> Ibid., pp. 34–35.

## PROTECTION

Protection strategies must recognize the harm inflicted on trafficked children, while also enabling them to confront and overcome their experiences. This empowerment is necessary not only for children's well-being, but also to protect them from being re-trafficked. States have an obligation to protect children from maltreatment and to safeguard their rights to health, housing and education. In fulfilling this obligation, governments have a duty to implement both short- and long-term measures for the full social, psychological and physical recovery of trafficked children.

States must design a variety of protection initiatives to address the particular needs and concerns of children trafficked at different ages and for different purposes. In addition, it is vital to equip children with skills that allow them to pursue the opportunities available in the communities to which they will return.

National authorities have the main responsibility to safeguard children from exploitation and abuse. Officials should be trained to identify at-risk children and offer them effective and child-friendly services. National and local child protection authorities should be in a position to provide children with appropriate information, including on life skills, gender and sexuality, and on access to a wide range of services. This information includes: options for reporting risky situations or cases of actual exploitation and abuse; counselling services; hotlines or drop-in centres providing advice; and alternatives to situations that place children at risk of exploitation and abuse, at home or in institutions (which, however, should always be seen as a last resort).

Governments also need to monitor the quality of their interventions. Independent monitoring mechanisms, including human rights commissions and child ombuds offices, are essential.

Children have the right to be heard in all administrative proceedings that affect them. This right applies both to those initiated by the child, such as complaints of ill treatment, and those initiated by others in which the child has an interest. Children cannot be heard effectively in an intimidating or hostile environment. It is therefore important to make procedures accessible and child-friendly. Particular attention needs to be paid to providing child-friendly information, support for self-advocacy, suitably trained staff and appropriately structured courts. Children should have the possibility to be heard directly in court or to be represented by an appropriate body, depending on the best interests of the child in a given situation.<sup>217</sup>

## National human rights institutions

**Afghanistan:** The Afghanistan Independent Human Rights Commission. The creation of this institution is consistent with the standards set forth in the Principles relating to the Status of National Institutions (the 'Paris Principles')<sup>218</sup> and is a significant development in promoting and preventing violations of human rights, including in the areas of children's rights and child trafficking. The Commission has a mandate to monitor human rights conditions and investigate cases of abuse. It has reviewed the Penal Code and submitted recommendations to the Judicial Commission on provisions to prevent trafficking. Any person whose fundamental human rights have been violated can file a complaint before the Commission. It can refer cases to legal authorities and will assist in defending the rights of the complainant.<sup>219</sup>

**India:** The National Human Rights Commission. The Commission issued a report on trafficking of women and children notable not only for its focus on trafficking, but also for its efforts to obtain information directly from trafficked persons, traffickers, police and other stakeholders.<sup>220</sup> The accounts of children provided comprehensive insight into the complexities surrounding child trafficking from Nepal to India, in particular the psychosocial impact that trafficking has on children.<sup>221</sup>

**Nepal:** Nepal is the only country in the region that has appointed a National Rapporteur on Trafficking. This position falls under the National Human Rights Commission, which is another example of an effective preventive and monitoring mechanism. The Rapporteur's office investigates, monitors and reports on trafficking and coordinates national, regional and international anti-trafficking initiatives.<sup>222</sup>

## National policies

In order to be effective, NPAs need to embrace a rights-based strategy and to include measures to prevent child trafficking, protect children and promote their development and participation. They also need to be adequately resourced and fully implemented. The majority of NPAs relating to child trafficking in the region emphasize protection measures.

**Pakistan:** The National Policy and Plan of Action against Sexual Abuse and Exploitation of Children. This lays out strategies for the prevention of sexual abuse and exploitation of children, and the protection, recovery and rehabilitation of children who have been sexually abused. It includes measures designed to review and publicize existing legislation, strengthen enforcement of child protection laws, produce a uniform code of conduct for shelters, train law enforcement officials, and monitor regional trafficking mafias and networks. The recovery and rehabilitation strategies include training officials on psychosocial recovery and rehabilitation, developing training for health-care and social welfare professionals, establishing support services for survivors (through a pilot project in Islamabad), creating a referral

system for services, and creating an information centre on child sexual abuse and exploitation.<sup>223</sup>

**Sri Lanka:** The National Child Protection Authority. The creation of this body is a significant development towards enhancing the protection of children. The Authority is enshrined in law and includes experts from various fields of child development and child welfare. It develops policies, advises governments, monitors policy implementation, coordinates public-awareness measures and maintains a national database on child abuse. This high-level body is both practically and symbolically important, as it signifies the government's commitment to improving the situation of children. However, as with all national bodies and policies, the true test of government support lies in the political and financial backing that the institution receives in order to carry out its mandate.

## National coordination mechanisms

Coordination at all levels is crucial to ensure the effective development and implementation of anti-trafficking initiatives. The allocation of sufficient resources to implement policies is also important.

Most countries in the region have established a coordinating mechanism, such as Nepal's National Task Force on Trafficking, and Afghanistan's task force, which focuses on child trafficking. Bangladesh also has a comprehensive structure at national and community level, through which government departments work to address trafficking in cooperation with United Nations organizations and NGOs.

## Bilateral agreements and regional cooperation

The most prominent of the regional anti-trafficking agreements are the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002) and the South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse (2001).

In November 2001, the Governments of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka developed the South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse. The Strategy includes proposals for regional cooperation in the area of prevention, protection, legislation and implementation, recovery and reintegration, cooperation and capacity-building, and child and youth participation (also *see page 18*).

The proposals include: the development and implementation of NPAs based on: consultations with children; the creation of legal frameworks consistent with the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

(the 'Palermo Protocol'); and the provision of child rights training for relevant officials. Implementation of the regional agreements, such as the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia and the South Asia Strategy, is crucial to further strengthen regional cooperation. However, since most agreements focus on sexual exploitation, it is important to ensure that child trafficking for other purposes is covered in action plans, and to ensure that a distinction is made between trafficking in children and trafficking in women.

Bilateral collaboration has been initiated within and outside the region. Many bilateral agreements focus on law enforcement issues, mutual legal assistance and repatriation of trafficked persons. The Governments of Bangladesh and India drafted a Plan of Action in June 2007 during a joint workshop in Goa, with the participation of United Nations organizations,<sup>224</sup> to strengthen the mechanisms of the rescue-to-reintegration process. The Plan's objective is to develop simple, standardized procedures and practical actions to expedite the process, improve the care and protection of children, and ensure that the best interests of children are paramount in all actions taken on their behalf. The action plan includes the development of minimum standards of institutional care and protection.<sup>225</sup>

### Assistance to trafficked children

Throughout the region, the tendency is to address child trafficking as a law enforcement and criminal justice issue, which results in less attention being paid to the rights of children who have been trafficked. But there are a few examples of effective laws that include provision for legal, social and psychological and other assistance, along with other measures to ensure child empowerment and protection.

**India:** The Goa Children's Act of 2003 requires the government to establish centres to assist children who have been trafficked and support them in criminal proceedings. It proposes the establishment of a children's court to try all offences against children, whether or not they fall under the purview of the Act. This would enable children to give evidence in a child-friendly space without having to face the persons who trafficked them. The principles underlying the concept of the court are positive. They emphasize the best interests of the child, including respect for the child's privacy, ensuring sensitive interaction during questioning, and encouraging and respecting the child's views. Guidelines also include provision for in camera trials, avoiding delays and providing all possible information and preparation to make the process as unthreatening as possible.<sup>226</sup>

**Nepal:** The Human Trafficking Control Act, 2007. This measure has a provision for victim compensation. Also notable is the Act's recognition of trafficking victims' right to conceal their identities, unless they give their consent and unless proceedings are carried out in camera.

**Pakistan:** The Prevention and Control of Human Trafficking Ordinance, 2002. This measure provides for public-awareness campaigns and requires courts (when appropriate) to provide trafficked women and children with shelter, food and medical assistance. The country's Prevention and Control of Human Trafficking Rules, 2004 enable trafficked children to apply to court if they are not satisfied with the services provided. If the services are found to be inadequate, fines may be imposed on the service provider. However, this provision does not take into consideration that a child living in a shelter home often does not have the means to apply to court or to engage a lawyer. Furthermore, in practice many child abuse cases are still treated under the Zina Ordinance, which poses significant human rights constraints.

### Development of minimum standards and procedural case management

The development, implementation and monitoring of minimum standards for assistance to trafficked persons and procedural case management are important to ensure that services are appropriate and do not re-victimize children.

The Government of Bangladesh works in cooperation with UNICEF and partners to develop minimum standards of care and protection for residential care.

UNICEF and partner NGOs will develop a system of administrative and procedural case management of rescued children by government authorities and NGOs. Shelter-based care and protection case management is being developed and piloted by NGOs. Further plans include: the development of guidelines and training materials on methods for child-friendly interviewing and information-gathering on family identity; standardized guidelines and protocols for family tracing; and guidelines on protection and risk assessment.

### CHILDREN'S EMPOWERMENT

Children are often denied the right to information about child protection and the mechanisms for challenging the lack of protection. Measures that empower children should form a significant component of a State's anti-trafficking strategy. Such measures are vital for assisting vulnerable children to avoid being trafficked, and for equipping trafficked children with the necessary life skills to move on from their experiences. Responsibility for the well-being of vulnerable or trafficked children is thus often placed only in the hands of adults. However, even adults with the best of intentions can contribute to a child's re-victimization due to a lack of knowledge and skills.

A common image of exploited or abused children and adolescents depicts them as 'victims' who are vulnerable because of their age. Although it is crucial to recognize these children as victims of a crime, an exclusive focus on this perspective can fuel the 'vulnerability paradigm', which portrays children as powerless.

A different approach recognizes children's capacity to deal with difficulties themselves, and often to overcome them despite the odds. This 'agency' or 'competency' paradigm emphasizes a child's resilience and sees children as active agents in their own development, and in the case of abuse, their own healing and recovery. This does not mean that children who have been trafficked should be left alone without support. Rather, it suggests they should be involved in deciding what kind of support they need and in evaluating its effectiveness, rather than being treated as passive recipients of assistance.<sup>227</sup> Experiencing meaningful participation often raises

children's self-esteem and increases their confidence to challenge abuse. Adults can only protect children if they are informed about what is happening in children's lives, and it is often only children who can provide this information.

The 'agency paradigm' adopts a child rights perspective, emphasizing the importance of promoting civil rights and freedoms (article 12 of the Convention on the Rights of the Child); freedom of expression (article 13); freedom of thought, conscience and religion (article 14); the right to privacy (article 16); and access to information (article 17).

## BOX 7

### PERSONALIZED CARE THROUGH CASE MANAGEMENT

Children sometimes end up 'lost' in the care system after being withdrawn from the sites of sexual and other forms of exploitation. Many rescued children remain in residential care for extended periods, pending identification of their family, awaiting judicial processes, or because they have no family or cannot return to their original homes, due to various factors such as the risk of being re-trafficked. Residential care systems in South Asia often operate with minimal resources and insufficient staff who are frequently untrained. While most facilities offer educational and vocational training programmes, these are sometimes ineffective and are attended by few children.

Research shows that many children in shelters do not receive personal care and attention and have little or no influence on decisions made in matters that concern them.<sup>i</sup> This indicates that shelters often have inadequate operational procedures or 'case management', or that there are knowledge gaps in implementing procedures, or both.

'Case management' is a system for providing personalized care and assistance under the guidance of a multidisciplinary team of caregivers. It is best known in the health-care sector and is a standard discipline in social work practice, including residential care. Case management for rescued trafficked children includes assessing multiple facets of the child, including medical, psychological and protection issues, as well as literacy and vocational skills. In participation with the child, the caregiver team, which usually includes a case worker, counsellor, house mother and legal representative, and, where relevant, other professionals such as physicians, uses the assessment to develop a case plan. The plan includes goals and actions for all facets of the child's care, protection and reintegration into the family or community.

The case plan is periodically reviewed and adjusted to meet the child's changing needs and desires. Often a separate case management assessment with a focus on protection issues is conducted. On leaving residential care, the organization develops a post-reintegration case plan that will oversee the child's reintegration. This plan incorporates the needs of the family and community as well as those of the child.

Case management for children is a direct activation of three articles of the Convention on the Rights of the Child:

Article 25: States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

This article ensures that the care provided to a child is reviewed so that the child is not 'lost' in the care system, and that planning ensures a rapid and effective move towards future reintegration into society.

Article 12.1: States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

This article calls for effective case management for each child, giving the child an opportunity to have his or her views heard and taken into account. It contributes to the determination and implementation of a child's best interests, which are provided for in article 3 of the Convention.

Providing adults and children with education and information on human rights and child protection for children and adults is also essential. Adults must also be sensitized on how to promote meaningful child participation.

### Child participation in policymaking

**Afghanistan:** The Children's Manifesto and its accompanying Framework for Action are positive examples of children's involvement in identifying key issues and suggesting actions to be undertaken by the government and other key stakeholders. The Children's Manifesto

is based on a series of consultations and workshops with children from various parts of Afghanistan.

It demands, among other things, the allocation of adequate resources to stop child trafficking and other rights violations: "Adequate responses to our concerns over violence against children (especially inappropriate physical and psychological punishment, humiliation and degradation of our dignity), early and forced child marriage, child trafficking, and dangers from the physical environment, including landmines and vehicle traffic." The Children's Manifesto also calls for: "Children's

Article 3.1: In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Case management is the best mechanism to ensure children's expression of their own views. Children are members of the case management team, and participatory mechanisms guarantee that they can present their views on all aspects of the case plan and its implementation and review. This includes medical and psychological care, education and vocational training, and decisions regarding reintegration, among others.

In South Asia, governments and civil societies acknowledge the need for case management for the protection and care of trafficked children. However, there is some confusion between 'case documentation' (recording information about the child) and 'case management' (managing the multiple facets of the child's needs and wishes). This was documented in a recent review of case management activities in 14 government and NGO shelters in Bangladesh and India. Most of the shelters were found to be documenting information on the children; but only one was conducting case management, which included meeting with a multidisciplinary team. However, that organization's efforts fell short, since focused case planning and periodic case review were lacking.

A draft joint plan of action was developed in 2007 by government and NGO stakeholders from Bangladesh and India. The plan is still under consideration, although parts of it have already been implemented (*also see Box 5, page 18*). It calls for a case management system covering the care, protection and reintegration of children who have been trafficked. It also requires training and monitoring by stakeholders to ensure viable case management practices.

UNICEF is supporting the Government of Bangladesh in developing case management on two levels:

- 1) Administrative/procedural case management of rescued children by government authorities and NGOs throughout the rescue, recovery, repatriation and reintegration process. This includes family tracing, identification of nationality, provision of travel documentation and procedures for cross-border transfer.
- 2) Shelter-based care and protection case management for rescued children, which will be piloted through various NGOs.

*Unless otherwise cited, the information in this box was based on communication with John Frederick, a child protection specialist in South Asia, June 2008.*

#### Note:

<sup>i</sup> See, for example: Pearson, E. 'Gaps Analysis on Intervention Strategies Against Trafficking in Women in Nepal: A background research study to inform Oxfam GB Nepal Programme's Campaign on Ending Violence against Women', Oxfam GB, Kathmandu, May 2004, pp. 18, 30, 49-50; Dutta, M. and B. Zutshi, *Rescued Trafficked Children from Commercial Sexual Exploitation: A situational analysis: Case study of Mumbai, Delhi and Kolkata*, Initiative for Social Change and Action, New Delhi, 2003, pp. 41-46.

participation in local and national decision making” that affects their lives. It goes on to state: “We want our President to meet with us and listen to us. We want to be consulted on issues directly related to children in Afghanistan and on identifying solutions for problems Afghan children are faced with.” In the Manifesto, children also ask for “children’s centres and children’s groups, where we can learn and develop ourselves, where we can speak freely and discuss issues that

affect our lives.”<sup>228</sup> Another good example of children’s participation is the development of Bangladesh’s National Plan of Action against the Sexual Abuse and Exploitation of Children including Trafficking. (see Box 8, below).

A similar process of children’s participation was initiated in Bangladesh during development of the Third National Plan of Action for Children, 2004–2009. A secretariat

## BOX 8

### WORKING TO PREVENT CHILD TRAFFICKING IN BANGLADESH

In 2001, in preparation for the Second World Congress against Commercial Sexual Exploitation of Children, Bangladesh involved children in developing a policy on handling child sexual abuse and sexual exploitation, including trafficking. Bangladesh is a signatory to the Declaration and Agenda for Action adopted at the First World Congress. As such, it is committed to developing a national agenda for action aimed at reducing the number of children vulnerable to commercial sexual exploitation, and to nurturing an environment that is responsive to child rights. A national plan of action (NPA) was prepared in 2001, guided by a core group of government and NGO representatives. The principal stages in this process were:

- Preparation of a background paper on good practices and priorities
- Consultations with eight groups of children who had experienced or were at risk of sexual exploitation and trafficking
- Consultations with key stakeholders in three cities
- Consultation with stakeholders in the capital, Dhaka.

#### First round of consultations with children

The participants in the children’s consultations included: boys and girls at risk of sexual exploitation and abuse; girls who had been trafficked for sexual purposes and had been rescued and were living in an NGO shelter home; boys and girls engaged in prostitution on the streets; girls engaged in prostitution in brothels; boys living in brothels; and girls rescued from the brothels and living in safe homes run by the various NGOs. Eighty-one children aged 10 to 17 participated, all of whom were associated with an NGO-run programme.

Each consultation was preceded by a half-day briefing session for a larger group of children, at which the participants for one-day consultations were selected. The purpose of the one-day consultations was to hear the children’s views regarding the best ways to tackle sexual abuse and exploitation, with the aim of developing a more focused and effective NPA. They were asked to describe the challenges they face and to share their ideas about how to improve their conditions and increase their life choices. The children were also asked to provide feedback on the findings of and recommendations made in the draft background paper on good practices and priorities to combat sexual abuse and exploitation of children. Their comments were incorporated into the final version of that paper, and ultimately in the NPA.

The sessions generated a rich pool of information and ideas. These were shared with government and civil society stakeholders at three subnational consultations prior to drafting the plan of action, and at a national consultation organized to review the first draft. The researcher who had coordinated the consultations with children was engaged to draft the NPA. Thus children’s contributions were, to a large extent, incorporated into the draft, significantly improving its focus and relevance. The National Plan of Action against the Sexual Abuse and Exploitation of Children including Trafficking was finalized in November 2001 and received Cabinet approval in February 2002. It identifies issues, objectives, strategies and partners under the following themes: prevention; protection; recovery and reintegration; perpetrators; child participation; HIV and AIDS, sexually transmitted infections and substance abuse; and coordination and monitoring.

#### Second round of consultations with children

In early 2002, steps were taken to start implementing the NPA. A committee with responsibility for implementation and monitoring was formed at the national level. One of the activities planned was a second round of consultations to report to the children on the outcome of their work and other important developments since the first round of

and subcommittees were established with representatives from the government, UNICEF, NGOs, children and sector specialists, to develop different components of the Plan. Save the Children and its partner organizations, in cooperation with UNICEF, led a consultative process to gather children's views regarding key issues to be covered. Between September 2003 and May 2004, some 1,900 children and young people were consulted.<sup>229</sup>

**Pakistan:** Children, along with UNICEF and NGOs, participated in the government's review of the National Plan of Action against Child Abuse and Exploitation (2004–2005). A child-friendly version of the draft Plan was prepared and distributed to all of the young participants. This culminated in a two-day national consultation in 2005 and the adoption of the final Plan.

consultations, and to seek their views regarding a possible role in implementing the NPA. The NGO briefed the children about the additional consultations and sought to determine their interest. Participants from the first consultation who were unavailable were replaced by other children of the same age group.

During a full-day session, the children were briefed on the main issues and strategies contained in the NPA, with a particular focus on prevention, protection and recovery/reintegration. They were asked what they thought children could do to prevent child sexual abuse, sexual exploitation and trafficking, and what they could do in cases where such abuse or exploitation had already occurred. Based on their experience, the groups from brothels and the girls and boys engaged in street-based sex work discussed the theme of sexually transmitted infections, including HIV, and substance abuse.

The second round of consultations generated a wealth of ideas from participants regarding specific actions children can take to prevent and respond to cases of child sexual abuse, exploitation and trafficking. Another important result was the children's views about their role in implementing the NPA. These included the ways in which they envisaged working, the kind of action they believed they could take, their perceptions of the need for partnerships with others, their particular strengths, areas in which they needed support, and the potential risks associated with their involvement in such action.

### Lessons learned

The first round of consultations demonstrated the effectiveness of seeking children's insights and recommendations for actions to reduce or prevent child abuse and exploitation, protect child victims and aid their recovery and reintegration into society. Several specific factors play an important part in the success of such an undertaking. The ethical principles that will guide the research must be clearly identified and adhered to without exception. If the consultation participants are to be selected from groups of children connected with NGO programmes, these organizations should have a thorough understanding of and programmatic experience with the issues under exploration. Strong support of researchers in the field is also critical. The location and timing of sessions including children need to be carefully chosen.

The challenges encountered in the course of the second set of consultations underline the importance of allocating sufficient time to carry out a task of this complexity with child participants. A more generous time frame would have allowed for a more comprehensive explanation of the background to the issues, greater reflection by participants and the use of more creative forms of expression. It would also have provided greater opportunities to strengthen the children's belief in their own and other children's capacities and potential. Another key insight was the need to build children's capacity in specific ways to participate in demanding tasks. In terms of implementing the NPA, this would involve a full briefing on its themes and issues, and efforts to strengthen the children's belief in their potential to play a significant role and support in building the skills required to work on implementation and monitoring, both independently and with adults.

Finally, special considerations are necessary when children participate in a consultation. Arrangements must be made to provide them with accommodation on the night before the consultation, and they must be compensated for any lost earnings and for food, travel and any other costs incurred.

**Source:** The information in this box was provided by Rachel Kabir, a researcher on child protection issues in South Asia.

## Provision for child participation in national policies

**Bangladesh:** The National Plan of Action for Children: Section 6, covering protection from abuse, exploitation and violence, requires the development of programme strategies to ensure the participation of children from different socio-economic groups in planning, implementing, monitoring and evaluating child-related protection policies and programmes. The Plan also mentions that children should have access to information about their rights and be able to report any child protection issues. The information should be spread through child participation groups and other channels.<sup>230</sup> The development of a child-friendly information and reporting mechanism will promote children's knowledge of measures of prevention, protection and empowerment. Some countries have free telephone helplines for children, an important step in promoting child-friendly reporting.

**India:** The National Plan of Action for Children. The comprehensive chapter on child protection includes goals, objectives and strategies. The Plan's three goals are to:

- Promote respect for the views of all children, including the most marginalized, and especially girls, within families, communities, schools and institutions, as well as in judicial and administrative proceedings, and facilitate their participation in all matters affecting them in accordance with their age and maturity.
- Make all children aware of their rights and provide them with opportunities to develop skills to form and express their views, build self-esteem, acquire knowledge, form aspirations, build competencies in decision-making and communication, and gain the confidence that will empower them to participate in their own development and in all matters concerning and affecting them.
- Empower all children as citizens by promoting their participation in decisions that affect their lives, their families and communities and the larger society.<sup>231</sup>

The strategies to achieve the goals include:

- Building the capacity of decision makers, professionals working with children, parents and other caregivers in relation to child rights and child participation.
- Strengthening children's organizations and providing them with opportunities to advocate with adult institutions.
- Providing child-friendly information on policies, plans and legislation.
- Ensuring that children have access to effective complaint procedures in relation to family life, schools, alternative care, and health services and institutions.
- Promoting a child-friendly education system.
- Developing the capacity of media personnel and children to produce programmes for and by children.
- Documenting best practices on child participation.
- Undertaking measures to ensure that children in difficult circumstances have opportunities to make their views heard and considered.

- Ensuring that all programmes are assessed for their impact on children, using indicators developed by children.
- Taking measures to enable children to participate in monitoring the National Plan of Action and preparing reports to the Committee on the Rights of the Child.<sup>232</sup>

To ensure the effective implementation of NPAs, active political support is necessary to mobilize resources, implement programme activities and other interventions, and monitor implementation and the impact on children. It is important to assess whether children's participation in developing such plans is meaningful and handled responsibly. This calls for the creation of mechanisms to institutionalize child participation in various levels of government decision-making. This should include legislative reform, policy-making, planning, data collection and resource allocation. Adults working with children need to be sensitized on child rights, including child development and child participation.

## Children's actions to prevent child trafficking

**Nepal:** Throughout South Asia, children have taken action, either themselves or together with adults, in research and projects to challenge discrimination, abuse and exploitation. One example emerged when Save the Children researched gender-based discrimination in Surkhet in 1999. The girls who participated in the study spoke about the difficulties they experienced due to their restricted mobility, heavy workloads, early marriage and fears about personal safety. During the discussions, several of the girls decided to work together to make a positive change.

Save the Children supported the children's efforts to create safe spaces for girls. The girls gathered information on the activities that made them feel threatened or vulnerable. Then they raised these issues with authorities and people in the community. They formed links with village networks, children's clubs, the police, teachers and local women's groups. They protested against instances of abuse and harassment. Over time, the group has become recognized as a crucial agent for change in the community. The attitudes of men, boys, parents and the wider community have changed and the girls have been empowered to negotiate for other changes to better their lives.<sup>233</sup>

**Bangladesh, India and Nepal:** A successful regional initiative is the Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation in South Asia (YPP).<sup>234</sup> The Initiative aims to give child survivors an opportunity to participate in peer-support programmes, public advocacy and community-awareness campaigns, thus helping reduce their vulnerability. The project involves collaboration between ECPAT International and various national NGOs. Children and staff make regular visits to peer-support programmes to facilitate the sharing of experiences between the self-help groups.<sup>235</sup>

## Securing development, social and economic rights

Children's rights are indivisible and interlinked and thus encompass civil, political, economic, social and cultural issues. While children are vulnerable and in need of protection, they are also independent agents with the capacity to participate in negotiating and claiming their rights together with adults. The adoption of measures that stimulate the development of children who have been trafficked generally helps improve their opportunities, strengthens their recovery and reduces their chances of being re-trafficked.

Often, good plans of action cannot be implemented because sufficient resources have not been allocated. It is therefore important to analyse state budgets from the perspective of their adequacy and responsiveness to

children's issues, particularly child protection. Child rights must be incorporated into poverty reduction strategy papers and other relevant strategies.

**Bhutan:** The National Plan of Action for Children. This Plan, incorporated into the Ninth Five Year National Development Plan (2002–2007), appears to be a particularly positive development in light of Bhutan's recent economic growth and its fiscal commitment to social services. Incorporating the National Plan of Action into the National Development Plan is a way of ensuring that sufficient resources are allocated for its implementation and highlighting that the promotion of child rights is an integral aspect of national development.

**India:** The National Plan of Action for Children calls for a systematic assessment of the impact of budgetary allocations and macroeconomic policies on the implementation of children's rights. The best interests of the child should guide budgetary decisions, and all national, regional and local authorities should evaluate the priority given to children in their policymaking. Ministries and departments with no child budget are requested to demarcate spending and monitoring on children. The Plan also addresses how additional resources will be mobilized, how the Plan will be monitored (with children's participation) and how it will be linked with state plans of action for children. The aim of the latter requirement is for States to develop or amend their plans of action for children with special reference to their regional, cultural and social contexts.<sup>236</sup>

### BOX 9

#### YOUTH PARTICIPATION AND EMPOWERMENT ACROSS THE REGION

The Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation in South Asia (YPP) empowers and builds the capacity of youth to take the lead in the fight against commercial sexual exploitation of children. Young people trained by the project have set up peer-support programmes in schools located in high-risk areas of Bangladesh, India and Nepal. They share information and provide one-on-one support to their peers to help them avoid falling prey to commercial sexual exploitation.

In an effort to reduce the number of children trafficked to other cities and neighbouring countries, young people trained in media and advocacy skills conduct awareness-raising campaigns that focus on communities. The project also works with trained caregivers and local organizations to equip them with the skills required to provide quality psychosocial care for child survivors.

With support from ECPAT and other non-governmental partners – Aparajeyo in Bangladesh, Sanlaap in India and Maiti Nepal – the young people are working to improve the lives of child survivors and to persuade adults to end the trafficking and commercial sexual exploitation of children.

**Sources:** Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation of Children in South Asia, <[www.yppsa.org](http://www.yppsa.org)>, accessed May 2008; and information from ECPAT, *Global Monitoring Report on the Status of Action against Commercial Sexual Exploitation of Children; Bangladesh*, ECPAT, Bangkok, 2006, p. 20, <[www.childtrafficking.com/Docs/ecpat\\_bangladesh\\_0870.pdf](http://www.childtrafficking.com/Docs/ecpat_bangladesh_0870.pdf)>.

# 5 KEY FINDINGS AND RECOMMENDATIONS

## KEY FINDINGS

### Positive developments

- Many promising initiatives have been undertaken to address trafficking in human beings in South Asia and strong political commitment to prevent and address child trafficking is evident.
- All the countries in the region are members of the South Asian Association for Regional Cooperation (SAARC) and have signed its two conventions, one aimed at preventing and combating trafficking of women and children in prostitution; the other at promoting the welfare of children.
- A broad range of national plans of action (NPAs) have been developed relating to trafficking in human beings, including some specifically on child trafficking. Many other plans relevant to child trafficking exist, such as NPAs covering the sexual abuse and exploitation of children and NPAs on children.
- Many countries have established specialized bodies and structures to plan, coordinate and implement policies on human trafficking.
- Several non-governmental organizations (NGOs) across the region cooperate to enhance protection of children from exploitation and abuse, including trafficking.
- Community mobilization initiatives are also in place in some countries, promoting preventive measures and child protection mechanisms at community level and addressing the root causes of trafficking.
- New initiatives in the region include the development of minimum standards of care for trafficked children and children who have experienced other forms of exploitation and abuse, as well as guidelines and training on case management of children.
- Some countries have developed bilateral agreements with other countries in South Asia, or with countries in other regions. However, additional bilateral cooperation is needed, particularly in enhancing the protection of children in cases where they are repatriated to their home countries, or sent to a country not of their origin.

### Trafficking patterns and flows

- Although reporting on cases of child trafficking is limited in scope, it indicates that trafficking in persons occurs in the majority of the countries in South Asia.

- Most of the countries in South Asia are countries of origin, transit and destination in the human trafficking chain. Internal trafficking (within national borders) also occurs and is estimated by researchers and programmers to be a significant form of trafficking in the region. This means that governments in South Asia have multiple responsibilities: to prevent trafficking; to protect children who have been trafficked or who may be at risk; to prosecute traffickers; and to ensure the recovery and empowerment of children who are survivors of trafficking, exploitation, abuse and violence.
- Child trafficking in South Asia is most commonly perceived and addressed in connection with sexual exploitation. However, trafficking takes place for various other exploitative purposes. Among these are: labour exploitation, including domestic servitude and begging; criminal activities; exploitation in armed conflict; forced marriage; debt release; and settlement of disputes.

### Data collection and research

- Most countries in the world, South Asian countries included, lack mechanisms for harmonized and systematic collection, analysis and dissemination of data on child trafficking at international, regional and national level.
- Few reliable estimates exist of the magnitude of the phenomenon in South Asia. Data are often limited to cases of cross-border trafficking of women and girls for sexual exploitation, and punishment of traffickers.
- Data are seldom disaggregated by age, gender, national origin or form of exploitation. Little information is available on the social background of persons who have been trafficked and the modus operandi of traffickers. Where qualitative data and information are available, they enhance understanding of the local situation, the relevant risk factors and children's views of services and options. However, qualitative data and information have not been systematically collected and analysed to inform national and regional responses to prevent trafficking and protect children from being trafficked.
- More research is needed on the links between child trafficking and other child protection issues, such as the protection of children's rights during migration and other forms of mobility. The factors that make children vulnerable and the root causes of child trafficking need to be investigated in closer relation with other child protection concerns.



These include: violence and abuse in the community, at home or in institutions; social and economic marginalization; lack of livelihood opportunities for children and young people; and social norms and structural factors that put children at risk. Investigating root causes also includes comprehensive research on discrimination and on how interrelated factors may increase the vulnerability of children, for instance where both gender-based and ethnic discrimination affect indigenous girls, or where there is discrimination against minority children with disabilities.

### International standards and national legislation

- Many international legal standards have been adopted to prevent and combat child trafficking. However, none of the countries in South Asia has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the 'Palermo Protocol'). Only India and Sri Lanka are signatories to the Protocol.
- National definitions of human and child trafficking vary throughout the region. Definitions of exploitation are often too narrow, and do not reflect the full scope of the international definition provided in the 'Palermo Protocol', and the even broader notion of trafficking promoted by article 35 of the Convention on the Rights of the Child. This hinders effective, collaborative responses through regional and international cooperation. At the same time, there is a general lack of conceptual clarity on the distinctions between child trafficking, sexual exploitation, prostitution, child labour and migration.
- Most international standards focus on adults, and there is a tendency to perceive child trafficking as a sub-issue of human trafficking. This focus is reflected at the national level across South Asia.
- Countries in the region do not have a uniform definition of the legal age of majority or other age limits that define a 'child' in different contexts. Some countries grant different standards of service and protection for girls and boys, for example by providing boys with less legal protection from sexual exploitation than girls, or defining a lower minimum age of marriage for girls than for boys.
- Child trafficking is typically addressed as a law enforcement and criminal justice issue only, within South Asia and globally. Legislation seldom includes other dimensions, such as legal, psychological and other kinds of assistance to trafficked children, or other measures to ensure the child's empowerment and protection. In some countries the focus is on law enforcement to control or criminalize prostitution, which emphasizes the 'immorality' of the sexual activity rather than the protection of potential victims of exploitation and abuse.

- Legal protection for children who have been trafficked remains weak. Trafficked children are not always recognized as such and may be held accountable for offences they committed as a result of being trafficked.
- National legislation often addresses trafficking within the context of the sexual exploitation of women and girls. This focus has drawn attention away from children who are trafficked for other forms of exploitation, and it neglects the trafficking of boys for sexual exploitation.

### Policy responses

- Policy frameworks are in place in many countries in South Asia to address trafficking in persons. They include specialized national bodies and institutions, and NPAs or other policy tools, including mechanisms for multi-stakeholder, bilateral and regional cooperation. However, there is a lack of synergy and coordination between and among the action plans and the many actors involved in anti-trafficking initiatives (including governments, United Nations organizations and NGOs). The diversity of their mandates and approaches makes coordination at national and international levels a challenge.
- Protection measures tend to focus on short-term assistance to children who have been trafficked. Scant attention is paid to analysing the root causes of trafficking or identifying children at risk. Little focus has been placed on providing psychosocial support to children who have experienced trafficking or other forms of exploitation, abuse and violence. Improving livelihood options in communities as a measure to reduce risk also needs further attention.
- Clear measures for the implementation and evaluation of policy responses to trafficking are lacking. Insufficient resources are allocated to ensure effective implementation of commitments and action plans.
- The region offers valuable experience in promoting children's active participation, especially in policy-making. Nonetheless, children's experiences, recommendations and actions to prevent child trafficking are often overlooked in the implementation and monitoring of policies and programmes to combat trafficking and assist children who have been trafficked.
- Children are seldom heard in legal and administrative procedures regarding their own cases, and the best interests of the child are not always considered in those procedures.

### Holistic approach to child protection

- While there are many genuine efforts aimed at strengthened protection of children, the region generally lacks comprehensive child protection systems at national and community levels to prevent trafficking, prosecute perpetrators and assist children who

have been trafficked. Challenges remain in establishing child-friendly legal, medical and psychosocial services, community mobilization for child protection and training of service providers. Other measures include the development of child-friendly information and material on child protection issues, and support for children's own actions for preventing and addressing child trafficking and other child protection concerns. The contributions of children and adolescents are important in assessing services and designing research tools.

- Multisectoral collaboration against child trafficking in South Asia is essential to enable holistic and child-friendly approaches to protection.
- A systemic approach that ensures cooperation among all relevant sectors, institutions and professionals working with children is necessary if the links between violence, abuse, exploitation and trafficking, and between trafficking and migration, are to be recognized. Such a systemic approach also facilitates the redress of the root causes of child protection violations, including gender-based discrimination.

## RECOMMENDATIONS

### Mainstreaming the general principles of the Convention on the Rights of the Child

The Convention on the Rights of the Child incorporates four general principles and rights that cut across all actions, decisions and other matters affecting a child. These are: the right to non-discrimination (article 2); the best interests of the child (article 3); the right to life, survival and development (article 6); and the right of the child to express and have his or her views heard and taken into account (article 12). These principles need to be considered in all actions to address and prevent child trafficking and to assist children who have been trafficked.

The UNICEF Innocenti Research Centre (IRC) studies on child trafficking have shown that even initiatives designed and implemented with the best intentions to protect children can inadvertently expose them to risks and violate their rights. Adopting a human rights-based approach to child protection, including full implementation of the Convention on the Rights of the Child, guided by the general measures of implementation of the Convention, will help protect children from harm caused by such initiatives.

### Law and policy

- **Ratification of key international legal instruments by all countries.** Countries should ratify all international legal instruments aimed at addressing and preventing child trafficking. Particularly important is the 'Palermo Protocol', which none of the countries in the region has yet ratified. Attention should also be given to the regional mechanisms for child protection. The scope of the SAARC Convention on Preventing and Combating

Trafficking in Women and Children for Prostitution should be broadened to include all forms of exploitation, and effective implementation to stop all forms of child exploitation should be ensured.

- **Amendment of existing laws and enactment of new laws.** Existing laws need to be revised and amended and new laws enacted to conform to international standards and address trafficking within a human rights framework. This includes: the recognition of both internal and cross-border trafficking; the inclusion of boys in trafficking law; giving attention to the different concerns of women and children; and expansion of anti-trafficking legislation to include all forms of exploitation. Measures should be taken to ensure that a trafficked child is never criminalized and that a person's migration is not jeopardized. Legislation should further provide for assistance and protection for trafficked persons, including: medical, psychosocial, legal and other forms of rehabilitation assistance; protection for trafficked persons and witnesses; children's participation, including in legal and administrative procedures; and specific measures to ensure the empowerment and protection of children who have been trafficked. Children need to be protected by law from re-victimization, and from prosecution or sanctions for offences they may have committed in the context of the trafficking situation.
- **Regional harmonization of trafficking laws.** National laws need to be harmonized to ensure protection for persons who have experienced cross-border trafficking, who may fall under the legal purview of two or more nations. It is particularly important to ensure harmonization of the definitions of trafficking, the legal definition of a 'child', the possibility of obtaining compensation for harm suffered as a result of the trafficking experience and repatriation measures.
- **Clarification and regional agreement on children's legal age of majority and other age limits defining a 'child' in relevant contexts.** Clear age limits and agreements on the legal age of majority will allow for standardized approaches by stakeholders, particularly police and courts, to safeguard children's rights, address children's needs and respect children's ability to make informed decisions.
- **Development and implementation of NPAs.** Some countries in South Asia have not yet developed NPAs addressing child trafficking (as part of an action plan on children, or as a separate action plan). In some cases, existing NPAs need revision to ensure clarity and comprehensiveness and to aid coordination with other national planning processes. Active political support is necessary to mobilize resources, implement programmes and interventions and monitor their effectiveness and impact on children.

- **Establishment of national strategies for collaboration among all actors.** Implementing NPAs requires the development of time-bound strategies that specify precise actions and funding requirements, and that clarify the areas of intervention and modes of support of all partners, including governments, NGOs, international partners and children. Cooperation among stakeholders and a clearly defined division of responsibility are crucial.

### ***National and regional child protection systems***

- **Development of national protection systems.** Protection systems framed by children's rights should be developed or strengthened and made operational at national and community levels. Child protection systems need sufficient resources to undertake a wide range of preventive and responsive measures to address child trafficking, violence, exploitation and abuse. These measures include: empowering children and youth; raising awareness; providing child-friendly legal, medical and psychosocial services; training service providers; and developing data-collection tools to monitor the prevalence of child trafficking. A systemic approach is necessary to recognize links between violence, abuse, exploitation and trafficking and to address the root causes of child protection issues.
- **Multisectoral collaboration and administration of child protection activities.** Guided by the Convention on the Rights of the Child, collaboration involving all relevant stakeholders should be promoted to enable comprehensive initiatives to address child trafficking. All relevant departments and community members should participate, including law enforcement agencies, social, medical and psychosocial service providers and legal counsellors. This can be facilitated by national and state guidelines and protocols, and by coordinating structures at all levels. National memoranda of understanding can clarify and expedite coordination between social welfare, justice, health, education and other sectors, as well as collaboration between governments and NGOs.
- **International harmonization of child protection activities.** Bilateral and multilateral agreements and plans of action need to be developed to strengthen cross-border activities, including identification of trafficked children, family tracing, repatriation documentation and cross-border transfer protocols. National focal points in each country need to be identified and trained to ensure consistent, reliable collaboration over anti-trafficking activities across borders.
- **Children's involvement in trafficking policies and measures.** Children should be recognized as social agents with the right to express their opinions freely and have them taken into account, and to seek, receive and impart information. Children should have the opportunity to influence social policies and measures that prevent and address trafficking. Children's own actions to prevent trafficking need to be encouraged and supported, as they are experts on their

own situation. Mobilizing children and young people requires making child-friendly and age-specific information available in local languages, as well as providing life skills education, including on sexuality, HIV and AIDS. Policies and measures informed by the actual experiences of children are proven to be more effective in addressing their concerns and risks. Child-friendly structures, including decision-making systems, are also needed to enable action based on what children report and propose.

- **Identification of trafficked children and child-friendly reporting.** It is important to establish a uniform system to identify children who have been subject to abuse and exploitation, whether as a result of trafficking or otherwise. The issue of identification must be addressed not only by government authorities but also by civil society organizations working with children. However, quality services should be available and accessible to all children, independent of identification. Services should be responsive to children's rights and individual needs. Reporting mechanisms should be developed or strengthened for use by children and families in actual situations of trafficking, violence, exploitation or abuse, and for those at risk. This should include establishing telephone helplines and community-based outreach services for children and communities.
- **Training of professionals.** Children can be better protected if there is broad awareness of child trafficking. Professionals working with and for children should be screened and trained to ensure they fully respect children's rights and that they ensure protection of the identity and privacy of trafficked children when they speak out about trafficking, abuse and exploitation. Capacity-building should include the dissemination of information on child development, protection and participation.
- **Child-friendly judicial processes.** Judicial proceedings should be refined to include formal witness protection procedures; ensure the psychological well-being and privacy of children through in camera proceedings; provide adequate protection and compensation to victims; and expedite prolonged legal processes through fast-track, child-friendly courts and the use of video testimony. Children should be informed about their rights and have access to legal support and other services (such as health, counselling and psychosocial support). They should also be given the opportunity to participate in developing reintegration programmes.
- **Child-focused, non-discriminatory practices.** Non-discrimination is a fundamental principle in human rights law. It is included in the Convention on the Rights of the Child and is a critical dimension in the development of laws, policies and programmes for children. Many trafficked children experience discrimination, and it is one of the root causes of trafficking. Measures should be taken to address discriminatory laws and policies and to ensure equitable access to

quality services for all children – national, non-national and undocumented. The Convention protects not only children who are citizens of a State Party, but also all children under the jurisdiction of the State, irrespective of their nationality and whether or not they have been trafficked into the country. General Comment No. 6 on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, issued by the Committee on the Rights of the Child in 2005, stresses that States should not discriminate against migrant children and should ensure their right to maintain their cultural identity and values, which includes maintaining and developing their native language. Furthermore, child-friendly information and services must be provided that reflect children's diversity, in terms of gender, age, ethnicity, national origin, caste, religion, sexuality and disability. All stakeholders, including fathers and mothers, the media and professionals working with and for children, as well as the girls and boys themselves, should be made aware of all forms of discrimination, and equipped with the skills to challenge such discrimination.

- **Minimum standards of care, protection and reintegration.** Countries should establish national systems of psychosocial care, starting with the development of minimum standards of care, protection and reintegration. Each country needs to develop rules for the registration, inspection and regulation of care facilities, and technical guidelines and protocols for practice. To ensure uniform quality of care for children trafficked across borders, minimum standards should be harmonized across the region.

Children who have been trafficked need long-term support. Holistic activities for their care, protection and reintegration should be carried out. Attention should be paid to strengthening reintegration practices, ensuring children's safety and developing community-based care options. As repatriation may not always be in the best interests of the child, each case needs to be assessed individually, taking into consideration the views of the child. Close contact with and support to the child's family are needed to ensure that the child is adequately protected when he or she returns home. Factors inducing family members to sell or traffic their children – such as lack of livelihood options, lack of awareness or knowledge about risks, and prevailing social norms – need to be addressed. Public discussions encouraging women, men and children to share their opinions and experiences on the harm caused by child trafficking can help facilitate changes in social norms and practices that put children at risk of trafficking. They can also influence other communities to have similar conversations.

- **Building national human resources for caregiving.** With support from educational institutions and international partners, governments need to identify human resource needs, develop plans and provide support for building human resources for caregiving, particularly social workers. Professionals working with children should be trained to safeguard children's

rights and to avoid the risk of children being further victimized when they speak out about their experiences. National capacity-building initiatives on counselling may be necessary.

- **Monitoring and evaluating national child protection systems, with children's involvement.** Monitoring tools and procedures need to be developed for protection systems at national and community levels. Child protection systems and practices need to be regularly monitored and evaluated. Children should be encouraged to participate in developing monitoring and evaluation practices, and national independent institutions on children (such as ombuds offices or child commissions) should be created to promote the safeguard of children's rights and the consideration of opportunities to seek children's views.
- **Research, data collection and information-sharing.** Mechanisms for the systematic collection, analysis and dissemination of data on trafficking, abuse, migration and disappearance of children and adolescents are urgently needed. Such systems also need to include data on traffickers.

Data should be disaggregated by age, gender, national origin and type of exploitation. In addition, data should be collected on specific vulnerability factors, including the social background of children who have been trafficked and the modus operandi of traffickers. Standard indicators need to be developed to enhance international data comparisons and to facilitate long-term monitoring of progress. A system is needed to enable routine sharing of research, good practices and experiences among stakeholders at national and international levels, including law enforcement officials and social service actors.

Research can fill gaps in knowledge, such as the links between child trafficking and migration, domestic abuse, neglect and violence. More research is needed on how technologies such as the Internet and mobile phones are being used to facilitate child trafficking.

### **Programming**

- **Enhancing child rights-based concepts and strategies in programming.** Stakeholders need to be sensitized on child rights-based concepts in anti-trafficking programming. Programme strategies and procedures for identification of and support to children who have been trafficked need to be clarified, harmonized and shared with stakeholders throughout the region.
- **Awareness-raising and advocacy.** There is a need for awareness-raising and advocacy activities on the risks of trafficking, as well as on legal and policy measures that may be used to combat it. Advocacy with children should be strengthened to reach specific target audiences more effectively, and to focus on positive messages. Baseline and follow-up assessments should be conducted to determine changes in levels of awareness and attitudes.

- **Prevention.** Prevention initiatives must address the root causes of trafficking and the factors that place children at risk, such as social and economic marginalization, institutional and home-based discrimination, violence and abuse. A preventive approach should address both the 'demand' and 'supply' sides of child labour and sexual exploitation. Promoting safe and regulated livelihood opportunities, especially in the most vulnerable communities, should be an important component of prevention. Working with boys and men is crucial in addressing gender-based violence and the demand side of sexual exploitation, and in engaging communities in the questioning and reconstruction of norms relating to masculinity, sexuality and gender relations. Effective prevention measures require the active participation of children and young people in matters that concern them. It also involves promoting an understanding of child rights, raising awareness of the risks children may face, and providing opportunities for children and adolescents to gain the skills and confidence to make informed decisions and to assume a responsible role in society.
- **Community mobilization.** Community mobilization is essential for both prevention and reintegration, and to ensure the sustainability of programmes. Community mobilization and awareness-raising on child rights, risk factors and support services have proved to be important tools to empower a community to assert the rights of children and women, and to prevent child exploitation and abuse, including trafficking. Commitment and pressure from inside a community can challenge harmful social norms. In communities that feel strongly responsible for safeguarding children's rights, it is difficult for traffickers to operate and for community members to turn a blind eye to the trafficking of children.

Community-based organizations and networks play an important role in monitoring crime prevention, reporting traffickers and supporting identification of trafficked children, and providing assistance and reintegration. Communities should establish reintegration committees that include representatives from the various stakeholder groups, including children. Parents (both fathers and mothers) can play an important role, if supported by parenting skills training and information on children's rights, gender socialization, child development, protection and participation. The links between violence in the home and child trafficking need to be further investigated and addressed.

- **Care, protection and reintegration.** Activities for the care, protection and reintegration of trafficked children need to be brought together with the cooperation of all sectors, institutions and professionals. The quality of care, protection and reintegration practices should be regulated through child-friendly national minimum standards. These services should be strengthened through caregiver training and capacity-building for a wide spectrum of care and protection services. Reintegration practices need strengthening,

for example through mechanisms to ensure children's safety and the development of community-based care options. As repatriation may not always be in the best interests of the child, each case needs to be assessed individually.

- **Involvement of children and young people in programming.** Participatory mechanisms need to be developed and stakeholders trained to ensure the involvement of children and young people in programming and policy development. Programming should be based on children's specific needs and take into account their views, as well as the needs and views of caregivers and field personnel who work directly with them. Child-friendly information and life skills education are essential for mobilizing children and young people, who can play an important role in developing preventive programmes and monitoring their effectiveness, and in decision-making structures and processes. Children and adults can work together to determine how to consult with and involve children in these initiatives.
- **Monitoring and evaluation.** Governments, NGOs and international partners should develop mechanisms to ensure that programmes are properly and routinely monitored and evaluated, and that the findings result in adjustments to programme design and implementation. Evaluation criteria should include human rights-based practices and mechanisms and an assessment of the impact of programmes on children.
- **International collaboration in programming.** Collaboration is needed among the countries of South Asia to enhance prevention, care and protection practices. South Asian countries need structures to exchange expertise and information about trafficking, and to coordinate technical meetings involving all stakeholders across the region and internationally. It is also important to reach and collaborate with actors such as faith-based organizations, the media and the private sector, and to promote corporate social responsibility.

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# ABBREVIATIONS

AIHRC	Afghanistan Independent Human Rights Commission	NGO	Non-governmental organization
ATSEC	Action against Trafficking and Sexual Exploitation of Children (a regional network)	NPA	National plan of action
CBO	Community-based organization	OPAC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	OPSC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CSEC	Commercial sexual exploitation of children	'Palermo Protocol'	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime
CSO	Civil society organization	'Paris Principles'	Principles relating to the Status of National Institutions
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (a network of organizations)	SAARC	South Asian Association for Regional Cooperation
'Hague Adoption Convention'	Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption	South Asia Strategy	South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse
HimRights	Himalayan Human Rights Monitors (Nepal)	TICSA	Trafficking in Children – South Asia (ILO/IPEC project to combat child trafficking for labour and sexual exploitation)
ILO	International Labour Organization	UNDP	United Nations Development Programme
INCIDIN	Integrated Community and Industrial Development Initiative (Bangladesh)	UNODC	United Nations Office on Drugs and Crime
INTERPOL	International Criminal Police Organization	VSO	Voluntary Service Overseas
IOM	International Organization for Migration	WOREC	Women's Rehabilitation Centre (Nepal)
IPEC	International Programme on the Elimination of Child Labour (ILO)	YPP	Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation in South Asia
IRC	Innocenti Research Centre (UNICEF)	Zina Ordinance	Offence of Zina (Enforcement of the Hudood) Ordinance 1979 (Pakistan)
MASVAW	Men's Action for Stopping Violence against Women (India)		
'Minimum Age Convention'	Convention concerning Minimum Age for Admission to Employment (ILO)		

# NOTES

## EXECUTIVE SUMMARY

- 1 United Nations, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, A/RES/54/263, United Nations, New York, 25 May 2000.
- 2 South Asian Association for Regional Cooperation is an economic and political organization established on 8 December 1985 by Bangladesh, Bhutan, India, Nepal, Maldives, Pakistan and Sri Lanka. Afghanistan became its eighth member at the Association's fourteenth summit in April 2007.

## CHAPTER 1

- 3 The 'Palermo Protocol' supplements the United Nations Convention against Transnational Organized Crime, which applies "to the prevention, investigation and prosecution of (a) the offences established in accordance with [the Convention]; and (b) serious crime as defined [by the Convention], when the offence is transnational in nature and involves an organized criminal group" (article 3.1). The Convention establishes four offences: i) participation in an organized criminal group; ii) money laundering; iii) corruption; and iv) obstruction of justice. An organized criminal group is defined as "a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established pursuant to [the] Convention, in order to obtain, directly or indirectly, a financial or other material benefit" (article 2 (a)). The main focus of the Convention is on mutual cooperation in law enforcement and on the wide criminalization of the prohibited conduct. Although the Convention contains some provisions relating to victim protection, they are restricted to protection during legal proceedings. See: United Nations General Assembly, United Nations Convention against Transnational Organized Crime, A/RES/55/25, United Nations, New York, 8 January 2001.
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- 11 United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime, article 3 (a), United Nations, New York, 2000.
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