

**Innocenti Working Paper**

**SEXUAL ABUSE AND EXPLOITATION  
OF BOYS IN SOUTH ASIA  
A REVIEW OF RESEARCH FINDINGS,  
LEGISLATION, POLICY AND  
PROGRAMME RESPONSES**

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## Innocenti Working Papers

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This paper presents an overview of research findings, legislation, policy and programme responses to prevent and respond to sexual abuse and exploitation of boys in South Asia. It represents a contribution to UNICEF IRCs research on the implementation of international standards and supplements previous IRC research on child trafficking in South Asia.

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## Acronyms and abbreviations

|             |   |
|-------------|---|
| AIDS        | Acquired immune deficiency syndrome   |
| AIHRC       | Afghanistan Independent Human Rights Commission   |
| Aschiana    | Afghan Street Working Children and New Approach   |
| ATSEC       | Action against Trafficking and Sexual Exploitation of Children (Bangladesh)   |
| BNWLA       | Bangladesh National Women Lawyers Association   |
| CPAN        | Child Protection Action Network (Afghanistan)   |
| CWIN        | Child Workers in Nepal  |
| ECPAT       | End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes                                   |
| ESCAPE      | Eradicating Sexual Child Abuse, Prostitution and Exploitation (Sri Lanka)   |
| HIV         | Human immunodeficiency virus  |
| HTTA        | Human Trafficking and Transportation (Control) Act 2007 (Nepal)   |
| ILO         | International Labour Organization   |
| INCIDIN     | Integrated Community and Industrial Development Initiatives (Bangladesh)  |
| IOM         | International Organization for Migration  |
| IPC         | India Penal Code  |
| IPOA        | Integrated Plan of Action to Prevent and Combat Human Trafficking, with Special Focus on Children and Women (India)         |
| IRWPA       | Indecent Representation of Women (Prohibition) Act 1986 (India)   |
| ITPA        | Immoral Traffic Prevention Act 1956 (India)   |
| LEADS       | Lanka Evangelical Alliance Development Service (Sri Lanka)  |
| LHRLA       | Lawyers for Human Rights and Legal Aid (Pakistan)   |
| LTTE        | Liberation Tigers of Tamil Eelam (Sri Lanka)  |
| MoLSAMD     | Ministry of Labour, Social Affairs, Martyrs and Disabled (Afghanistan)  |
| MWCA        | Ministry of Women's and Children's Affairs (Bangladesh)   |
| NCCWD       | National Commission for Child Welfare and Development (Pakistan)  |
| NCPA        | National Child Protection Authority (Sri Lanka)   |
| NGO         | Non-governmental organization   |
| NPA         | National plan of action   |
| NPAC        | National Plan of Action for Children 2005 (India)   |
| NPATC       | National Plan of Action on Trafficking in Children (Sri Lanka)  |
| NWFP        | North-West Frontier Province (Pakistan)   |
| PCA         | Penal Code (Amendment) Act (Sri Lanka)  |
| PEACE       | Protecting Environment and Children Everywhere (Sri Lanka)  |
| PPA         | Pakistan Paediatric Association   |
| RPOA        | Report and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children 1998 (India)       |
| SAARC       | South Asian Association for Regional Cooperation  |
| SITA        | Suppression of Immoral Traffic Act 1933 (Bangladesh)  |
| SPARC       | Society for the Protection of the Rights of the Child (Pakistan)  |
| STI         | Sexually transmitted infection  |
| SVWCA       | Suppression of Violence against Women and Children Act 2000, (Bangladesh), or <i>Nari o Shishu Nirjaton Doman Ain, 2000</i> |
| TPO         | Transcultural Psychosocial Organization Nepal (Nepal)   |
| UBINIG      | Unnayan Bikalper Nitinirdharoni Gobeshona (Bangladesh)  |
| UNDP        | United Nations Development Programme  |
| UNESCAP     | United Nations Economic and Social Commission for Asia and the Pacific  |
| UNICEF ROSA | UNICEF Regional Office for South Asia   |
| UNICEF      | United Nations Children's Fund  |
| UNIFEM      | United Nations Development Fund for Women   |

# **Sexual Abuse and Exploitation of Boys in South Asia A Review of Research Findings, Legislation, Policy and Programme Responses**

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**Summary:** This paper provides an overview of research findings, legislation, policy and programme responses to prevent and respond to the sexual abuse and exploitation of boys in South Asia. The background to the paper is based on the findings from previously conducted UNICEF IRC research on child trafficking in the region, in which it was indicated that boys enjoy less legal protection than girls from sexual abuse and exploitation and less access to service for victims. While it is seen that the majority of legislation and policies that address ‘children’ adequately address ‘boys’, this paper notes areas in which the rights and needs of boys require greater focus. Among the concerns is the absence of legal commentary on legislation regarding boys’ issues and an absence of advocacy efforts to take action and amend laws to provide equal protection to boys. In some cases legislation covers only girls and women. And, although research shows that boys face nearly the same degree of sexual abuse and exploitation as girls, programming throughout the region is overwhelmingly directed at girls and women.

Evidence-based information is lacking on the sexual abuse of both boys and girls and on the sexual exploitation of boys. The majority of studies to date have emphasized trafficking for sexual exploitation and have been focused on women and girls. Research on trafficking has concentrated on recruitment, transportation and sale of victims; little research has been conducted on the subsequent situations of exploitation into which children are trafficked.

Some countries in South Asia are beginning to fill the knowledge gap regarding both child sexual abuse and sexual exploitation of boys. The information that is presented was mainly gathered in 2008, but it remains limited by the sources available, some of which date back several years previously. The findings are however considered to be relatively robust and consistent. The report presents concrete recommendations for strengthening legislation, policy and programmes to address this issue from a child rights based approach. It highlights that listening to boys and girls and learning from their experiences and recommendations are key to designing and implementing effective preventive and protective mechanisms.

**Keywords:** sexual exploitation, child sexual abuse, child trafficking, boys in South Asia

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## INTRODUCTION

Across South Asia and the world, sexual abuse and sexual exploitation adversely affect the lives of countless children, from preschool boys and girls to adolescents. No country in South Asia<sup>1</sup> is exempt from the occurrence of child sexual abuse and exploitation, although the full magnitude of the problem is unknown. One of the greatest challenges to addressing child sexual abuse and exploitation is its hidden nature – children, families, schools, institutions and governments are reluctant to report abuse for numerous reasons, and the majority of cases go unreported.<sup>2</sup>

The UNICEF Innocenti Research Centre together with the UNICEF Regional Office for South Asia (ROSA) have conducted research and produced two reports on child trafficking in South Asia.<sup>3</sup> Among other findings, the study indicated that boys have less legal protection than girls from sexual abuse and exploitation and less access to services as victims. Findings from other studies indicate a similar disparity in addressing the needs and rights of boys.<sup>4</sup> Similarly, while there are some good examples of research on the sexual abuse and exploitation of boys in South Asia, the primary focus of research on the sexual exploitation of ‘children’ has been on girls.<sup>5</sup> For this reason, the Innocenti Research Centre and ROSA have identified sexual abuse and sexual exploitation of boys as an area in need of greater attention.

This paper seeks to provide an overview of research, legislation, policies and programmatic responses to the sexual abuse and exploitation of boys in the region. While it is seen that the majority of legislation and policies that address ‘children’ adequately address ‘boys’, this paper notes areas in which the rights and needs of boys require greater focus. Among the concerns is the absence of legal commentary on legislation regarding boys’ issues and an absence of advocacy efforts to take action and amend laws to provide equal protection to boys. In some cases legislation covers only girls and women. And, although research shows that boys face nearly the same degree of sexual abuse and exploitation as girls, programming throughout the region is overwhelmingly directed at girls and women.

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<sup>1</sup> The countries of the UNICEF South Asia region are Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka.

<sup>2</sup> United Nations General Assembly (Pinheiro, P.S.), 2006, ‘Report of the independent expert for the United Nations study on violence against children’.

<sup>3</sup> UNICEF Innocenti Research Centre, 2008, ‘South Asia in action: Preventing and responding to child trafficking: Child rights-based programme practices’, UNICEF Innocenti Research Centre, 2008, ‘South Asia in action: Preventing and responding to child trafficking: Summary report’; UNICEF Innocenti Research Centre 2009, ‘South Asia in action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region.’

<sup>4</sup> Save the Children Alliance, 2005, ‘10 essential learning points: Listen and speak out against sexual abuse of girls and boys’.

<sup>5</sup> For example, in the 2003 study by the Asian Development Bank, ‘Combatting trafficking of women and children in South Asia: Regional synthesis paper for Bangladesh, India, and Nepal’, there were 163 specific references to ‘girls’ and 17 specific references to ‘boys’. In the 2004 study by UNIFEM and the India National Human Rights Commission, ‘A report on trafficking in women and children in India 2002-2003, there were 466 specific references to ‘girls’ and 41 specific references to ‘boys’.

## 1.1 Scope and Limitations

The information gathered for this report was mainly gathered in 2008, with some updates in 2009. It therefore does not account for all changes and developments that have occurred in the countries and within the region as a whole that may have an impact on the situation of boys, and especially sexual abuse and exploitation. The scope of this paper has been limited by the time available and challenges in accessing information. As yet no comprehensive studies have focused on the abuse and exploitation of boys in the region, either at a national or regional level, so the information is scattered through documents whose focus is primarily on girls and women or on human trafficking in general. Further, some of the analysis presented in this report is based on data that is over five years old. Nevertheless, indications from anecdotal reports and programme documents suggest that the situation has not changed significantly. By providing a brief summary of current evidence-based information, relevant legislation and policies, and a few examples of programme responses including those funded and/or carried out by governments, donor agencies, non-governmental organizations (NGOs) and communities, this study aims to serve as a foundation for further work on the subject; it cannot be considered comprehensive.

Given the sensitivity around the issues covered in this report and ethics of conducting research on child sexual abuse and exploitation, most of the findings and analysis drawn upon in producing this report has been collected from qualitative, including ethnographic research drawn from relatively small sample sizes. For the reasons just stated, a quantitative perspective that would help provide a better sense of the magnitude of the phenomenon does not currently exist. Hence care must be taken when interpreting the data not to make wide generalizations, particularly within and across countries given the wide and rich diversity of cultures and norms across the region.

This document does not address several key areas related to the protection and care of boys affected by abuse and exploitation. It does not address treatment of boys in juvenile justice systems or activities to address the psychological consequences of sexual abuse. Bhutan and the Maldives are not included due to lack of information and currently limited legislation, policy and programmes on the subject of this report. Due to time constraints important sources of information, particularly those from the HIV/AIDS and reproductive health communities were not accessed and analysed. The sections on country programme responses provide only a brief summary of notable activities by governments, donor agencies and NGOs, and few comments on the quality of those responses. As noted below, all countries in the region lack mechanisms to assess the quality of programmes, and while the literature on trafficking is voluminous, it includes few comprehensive summaries of programme activities to address the sexual abuse and sexual exploitation of children in the region or individual countries.<sup>6</sup>

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<sup>6</sup> Examples of summaries include: Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'; and Heissler, K., 2001, 'Background paper on good practices and priorities to combat sexual abuse and exploitation of children in Bangladesh'.

## 1.2 Definitions

While acknowledging that the following terms are conceptualized and interpreted in various ways, in this report, the following definitions are used:

Trafficking:

(a) ‘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 the 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;

(c) 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 subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.<sup>7</sup>

The terms ‘sexual abuse’ and ‘sexual exploitation’ require some clarification, as they are often used interchangeably.<sup>8</sup>

Child sexual abuse:

a) Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;

b) Engaging in sexual activities with a child where:

– use is made of coercion, force or threats; or

– abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or

– abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

It should be noted that the provisions of paragraph a) are not intended to govern consensual sexual activities between children under the age of 18 years.<sup>9</sup>

According to the Council of Europe Convention on the Protection of Children against Sexual Abuse and Exploitation (articles 18 to 23) the definition of sexual exploitation of children

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<sup>7</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Organized Crime, article 3, United Nations New York, November 2000, UNICEF uses this definition of child trafficking.

<sup>8</sup> The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography – use the language ‘child prostitution’ and ‘child pornography’, United Nations, New York, May 2000. However, there has been an evolution in the terminology used since the adoption of the Optional Protocol, with many organizations now preferring to use the terms ‘sexual exploitation in prostitution’ and ‘sexual exploitation through abusive images/material’, which highlight the exploitative aspects of these phenomena, rather than ‘child prostitution’ and ‘child pornography’.

<sup>9</sup> Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

includes child prostitution, child pornography, the participation of a child in pornographic performances (including recruiting, coercing and causing a child to participate in pornographic performances or profiting from or otherwise exploiting a child for such purposes and knowingly attending performances involving the participation of children), intentional causing, for sexual purposes, of a child who has not reached the legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate, and the solicitation of children for sexual purposes.

#### Child Pornography:

Child Pornography is, according article 2 (c) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, defined as: "...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 Council of Europe Convention article 20, paragraph 2 defines 'child pornography' as: "...any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes". While this report uses the term 'child pornography', it is recognised that the term 'child abuse images' is increasingly being used to refer to the sexual exploitation of children and adolescents in pornography. Many laws and policies still however use the term.

The 'solicitation of children for sexual purposes', is according to the Council of Europe, the

intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.<sup>10</sup>

Thus, 'sexual exploitation' implies the presence of sexual abuse, while 'sexual abuse' does not necessarily imply the presence of sexual exploitation. This distinction, while subtle, is of consequence in both legal discourse and in identifying the means to address the often more hidden forms of sexual abuse through legislation, policy and programming.

The review of legislation, policy and programming conducted for this paper found a strong emphasis on sexual exploitation of children, including through prostitution, pornography, and in the travel and tourism sector, and a relatively weak emphasis on sexual abuse of girls and

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<sup>10</sup> Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Lanzarote, 2007, article 23.

Article 18, paragraph 1.a is as follows:

Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct is criminalised:

- a) engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;

Article 20, paragraph 1.a. is as follows: 2 is

Each Party shall take the necessary legislative or other measures to ensure that the following intentional conduct, when committed without right, is criminalised:

- a) producing child pornography;

boys in the home, community, institutions and workplaces. However, this review also found a broadening of concern for all forms of child sexual abuse and exploitation and greater understanding of the interrelation of various forms of violence against children.<sup>11</sup> With the understanding that these terms overlap, they are with caution distinguished in this document.

An attempt has also been made to differentiate between the terms ‘trafficking’ and ‘sexual exploitation’, which are often used interchangeably in legislation, policy, advocacy and research documents. As will be discussed in the report, ‘sexual exploitation’ generally includes prostitution and/or the use of persons in the production of sexual abuse images. Sexual exploitation may or may not be a consequence of ‘trafficking’, particularly for boys. Boys may enter situations of sexual exploitation from the street or labour situations that have not involved trafficking according to international definitions – that is, they may not have been moved by a trafficker prior to being recruited, or they may have made a conscious decision to receive remuneration from an existing situation of sexual abuse from which they cannot readily escape or they may have initiated action by themselves.

The sexual exploitation of children in pornography has not been clearly addressed in the research, legislation or policy of South Asia in part because the term ‘pornography’ is not well understood. There can be overlap between sexual abuse and exploitation in the production of child abuse images and internet and communication technologies (ICTs). In addition, legislation prohibiting the use of children in the production of child abuse images is often lacking in the region.

The terms ‘sexual abuse’ and ‘sexual exploitation’ also may both apply to the use of the Internet by abusers to coerce children into indecent exposure on videos captured by webcams, some of which may be sold commercially. Another situation applies to the use of Internet chat rooms to arrange meetings with children for sexual acts; some of these meetings may involve the use of children in sexual activities for remuneration or other forms of consideration (thus exploitation through prostitution), while some may involve non-remunerative sexual abuse. A process of ‘grooming’ may have taken place prior to the meeting.

### **1.3 Boys as Victims of Sexual Abuse and Exploitation**

While no child is exempt from the risk of sexual abuse and exploitation, some groups of children are more vulnerable than others. These include children with physical and mental disabilities, children from ethnic minorities and marginalized populations, children living and working on the street, children in conflict with the law, child refugees, children separated from their families, children in places of conflict and natural disasters, sexual minorities, children living in slums and the children of sex workers.<sup>12</sup> Children who belong to several of these groups are even more vulnerable. There is some evidence that sexual abuse of children

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<sup>11</sup> Save the Children Alliance, 2005, ‘10 essential learning points: Listen and speak out against sexual abuse of girls’ and boys’.

<sup>12</sup> Save the Children Alliance, 2005, ‘10 essential learning points: Listen and speak out against sexual abuse of girls and boys’ (global submission to the UN Study on Violence against Children); United Nations General Assembly (Pinheiro P.S.), 2006, ‘Report of the independent expert for the United Nations study on violence against children’.

may increase their vulnerability to sexual exploitation. However, while attention to these special groups is necessary, the need to prevent and respond to the abuse and exploitation of children from less marginalized families across different cultures cannot be underestimated. Particularly regarding sexual abuse in the home and family, evidence indicates that children from all walks of life, including the privileged, can be victims.<sup>13</sup>

As discussed below, there are considerable limitations in evidence collected from present research. Much of the data, particularly those from police, government and media sources, are often difficult to verify, and this is further confounded by very limited information on reports of abuse and exploitation. Thus, current research is inadequate to determine the comparative prevalence of sexual abuse of boys versus girls. In much of the research, data are not disaggregated for boys and girls, and male experiences of sexual exploitation and abuse are generally underreported. Available disaggregated data indicate a somewhat higher prevalence of sexual abuse and violence against girls than boys in Bangladesh, India, Nepal and Pakistan.<sup>14</sup>

Children of all age groups experience sexual abuse. Preschool children of both sexes are considered equally vulnerable, although this is yet to be verified by research. Both girls and boys are at risk of HIV/AIDS and sexually transmitted infections. Perpetrators may abuse preschool children with impunity because very young children may not fully comprehend that they have been abused and are often unable to tell others about it. Often, the abuse is only discovered when the child presents symptoms of physical harm.<sup>15</sup>

Among children aged 6 to 12 years old in South Asia, boys are generally considered to be more vulnerable than girls outside the home because social custom protects and monitors girls more, while boys have relatively more freedom.<sup>16</sup> Social customs contribute to the vulnerability of boys, as they are generally considered capable of protecting themselves and because society in general tends to deny the sexual abuse of boys and consensual sexual relationships between males. This may explain why the sexual abuse of boys is less frequently reported than the abuse of girls, whether due to lower frequency or greater denial of the problem, and statistics may not give an accurate picture of the problem.

With the exception of cultures in the region in which pubescent and post-pubescent females, due to cultural and/or religious norms, tend to be restricted to the home, adolescents appear to have greater mobility, are more subject to the influence and coercion of peers, and are often culturally, if not legally, considered to be adults capable of making their own decisions. In

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<sup>13</sup> Breaking the Silence Group, Bangladesh, 2003, 'Learning from experience: Case studies of non-commercial sexual abuse of children in Bangladesh'; P. Virani, 2000, 'Bitter chocolate: Child sexual abuse in India'; Society for the Protection of the Rights of the Child, 1998, 'Children in danger: The sexual abuse of children'.

<sup>14</sup> Breaking the Silence Group, Bangladesh, 1997, 'Non-commercial sexual abuse of children in Bangladesh: A case study based report'; Haq Centre for Child Rights, 2005, 'Status of children in India Inc.'; UNICEF and Child Workers in Nepal, 2005, 'Violence against children in Nepal: Child sexual abuse in Nepal: Children's perspectives'; Save the Children Sweden-Peshawar and Pakistan Paediatric Association, 2003, 'Extent of child abuse in Pakistan'.

<sup>15</sup> De Silva, H. and Hobbs, C., 2000, 'Child abuse: A manual for medical officers in Sri Lanka'.

<sup>16</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

general, adolescent girls are thought to be more vulnerable to abuse than adolescent boys.<sup>17</sup> Male peer coercion can influence adolescent boys to perpetrate sexual violence against girls and boys, including sexual harassment, sexual touching, rape and gang rape.<sup>18</sup> While adolescent boys are subject to peer coercion, they are often more physically able to resist unwanted sexual advances.<sup>19</sup> However, boys may be relatively more at risk of sexual abuse in cultures that have barriers against having sex with females outside of marriage, strongly protect the virginity of unmarried women and/or accept sex with boys because they cannot become pregnant.<sup>20</sup>

The psychological impact of sexual abuse on boys as compared to girls has not been sufficiently addressed in South Asia or globally, and little is known. Many discussions of psychological impact, as well as training documents for counsellors who work with victims of child sexual abuse, do not address any possible distinctions in boys' and girls' response to sexual abuse.<sup>21</sup> While the emotional consequences of sexual abuse to girls relative to boys are little known, some research indicates that the sexual abuse of boys has a more observable social impact, playing out in substance abuse, school absenteeism, violent behaviour and petty crime.<sup>22</sup> Some studies show that sexual abuse of boys puts them more at risk of becoming abusers, but this linkage has not been adequately established. Prior sexual abuse is considered a risk factor for becoming an abuser; however, not all abusers have a history of sexual abuse, and not all of those who are abused become abusers. The percentage of abuse victims who become abusers is unknown.

Boys' vulnerability to sexual abuse and exploitation is a complex subject because prevalent conceptions of adolescent boys often reinforce the idea that they can readily protect themselves and more easily recover than adolescent girls. Families and communities perceive that boys are 'stronger' and thus more psychologically resilient.<sup>23</sup> This is coupled with the reality that, even given public exposure, boys are less likely than girls to face social discrimination and ostracism, except for boys who exhibit feminine characteristics. In some South Asian cultures, girls and their families can be socially victimized if the girl is sexually abused or even accused of having been abused. They can face severe reprisals, including loss of marriage opportunities.<sup>24</sup>

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<sup>17</sup> United Nations (Pinheiro, P.S.), 2006, 'World Report on Violence against Children'.

<sup>18</sup> Save the Children, 2004, 'Child sexual abuse in South Asia: A discussion paper'.

<sup>19</sup> Save the Children Sweden–South and Central Asia Region, 2007, 'Mapping Save the Children's response to violence against children in South Asia'.

<sup>20</sup> Save the Children Alliance, 2005, '10 essential learning points: Listen and speak out against sexual abuse of girls and boys'.

<sup>21</sup> United Nations Economic and Social Commission for Asia and the Pacific, 1999, 'Sexually abused and sexually exploited children and youth in South Asia: A qualitative assessment of their health needs and available services'; Jordans, M.J.D., 2001, 'Specialized training manual on psychosocial counselling for trafficked youth: Handling the trauma of sexual exploitation'; S. Seshadri, 2002, 'A training of trainers manual on child sexual abuse' (draft manuscript).

<sup>22</sup> World Health Organization (Krug, E.G. et al.), 2002, 'World report on violence and health'.

<sup>23</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>24</sup> Ibid.

Certainly, older boys often have the physical as well as social means of protection that girls lack: boys can physically resist abuse; they are less easily confined and better able to run away from a confined exploitive situation; and they can more easily seek physical support from peers to resist or attack abusers. They are also likely to have better opportunities for social integration following sexual abuse and exploitation, for they often retain the social and economic advantages of patriarchal society: they bear less long-term stigma, their abuse is more likely to be overlooked by family and community, and they depend for social integration less on marriage than on employment, which remains available. Successful income-generation programmes with boys exploited in prostitution have proven that most boys can find employment, get married and lead 'normal' lives.<sup>25</sup>

At the same time, the apparently greater freedom and power that boys have are also a source of vulnerability. Their greater mobility promotes separation from family, which can result in a lack of protection. Migrating children and children living on the street are among the most vulnerable to sexual abuse and exploitation. Boys' sense of freedom and caregivers' attitudes towards them also make them less likely to seek help and be more resistant to long-term support and treatment.

For many boys, male gender dominance is an oppression as well as an advantage. Boys face constant pressure to assert their masculinity, leading them to deny that abuse occurred, disguise their fear or sadness, and refuse to accept help. All of this can hinder psychological recovery.

Gender roles that require males to be controlling and aggressive can lead to sexual abuse. For example, in territorial conflicts among children of the street over sleeping places such as train stations, sexual abuse is often a tool to gain dominance over weaker boys.<sup>26</sup> Similarly, the victory of a street gang in urban gang fights might be demonstrated by the rape of the weaker members of the opposing gang.<sup>27</sup>

The attitudes of family and caregivers towards boy victims of sexual abuse and the treatment boys receive often differ from that of girls. Families may believe that boys, being 'strong', are less affected by the abuse.<sup>28</sup> Boys' more apparent physical maturity acts as a disadvantage in their relationships with adult society, as adolescent boys are more likely than girls to be considered 'adults' by police and judicial authorities, leading to treatment without the care that is due to children. According to social norms in South Asia, post-pubescent boys are considered to be adults, which is reinforced by boys' wish to appear older and stronger than their age. When apprehended by police or appearing in court, they are more readily held

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<sup>25</sup>Frederick, J., 'Teaching the boys hard skills: the Don Bosco Technical Centre', In J. Frederick (ed.), 2000, 'Fallen Angels: The sex workers of South Asia'.

<sup>26</sup>ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>27</sup>Personal correspondence with A.K.M. Mustaque Ali and Hasan Rokibul, INCIDIN Bangladesh.

<sup>28</sup>Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.



accountable for their actions, blamed and considered perpetrators than are girls, even if they are victims of a crime.<sup>29</sup>

Across South Asia, more residential and outreach caregiving services are available to girls than to boys. In shelters and juvenile detention homes, boys may present more discipline challenges, but caregivers are rarely trained in dealing with children from a gender perspective. Consequently, caregivers often treat boys with less compassion and greater severity than girls and are more likely to physically punish boys.<sup>30</sup>

## **1.4 Sites of Sexual Abuse in South Asia**

### ***1.4.1 The home and family***

Little information is available about the magnitude of sexual abuse of children within the confines of the home in South Asia, for the great majority of such cases go unreported.<sup>31</sup> Abuse within the home is usually an abuse of trust and dependence as well as of the body, as it is often perpetrated by those responsible for the child's protection: fathers, older siblings, aunts and uncles. Children are frequently reluctant to tell others about it because they fear stigma or blame, think no one will believe them or have no one they feel they can speak with safely. They may fear that disclosure of the abuse will harm the family's honour, that a family member will end up in prison, that they will be cast out of the house or, for girls, that they will lose marriage opportunities. Abusers may threaten the child, so the child stays quiet for fear of retaliation.

If a child does report such abuse to a family member such as the mother, this information may go no further, for she may fear that disclosure will harm the family's honour or result in social ostracism. In many cultures of South Asia, the child's security and rights at times may be secondary to family honour, for public disgrace can have immense negative impacts on all family members.<sup>32</sup>

Existing research indicates that boys are less likely than girls to be abused in the home, primarily because of their relative social freedom.<sup>33</sup> The exception is Sri Lanka, where boys appear more at risk of sexual abuse in the home than girls, according to the National Child Protection Authority.<sup>34</sup>

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<sup>29</sup>UNICEF Innocenti Research Centre, 2009 'South Asia in Action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region'.

<sup>30</sup> Save the Children Sweden-South and Central Asia Region, 2007, 'Mapping Save the Children's response to violence against children in South Asia'.

<sup>31</sup> Save the Children, 2004, 'Child sexual abuse in South Asia: A discussion paper (Regional review submitted to the UN Study on Violence against Children)'.

<sup>32</sup> United Nations General Assembly (Pinheiro, P.S.), 2006, 'Report of the independent expert for the United Nations study on violence against children'.

<sup>33</sup> For example, see Child Workers in Nepal and UNICEF, 2005, 'Violence against children in Nepal: Child sexual abuse in Nepal: Children's perspectives'; and Sahil, 1998, 'Child sexual abuse and exploitation in Pakistan'.

<sup>34</sup> National Child Protection Authority, 2003, 'Many children still abused and neglected in Sri Lanka'.

### ***1.4.2 The community***

Sexual abuse of children in the community falls into two forms of coercion: manipulation of the child's trust, such as in abuse by family friends, child caretakers, or neighbours; and exploitation of power, by those who can exert control over the child or the child's parents. Disempowerment, poverty, membership in a disadvantaged ethnic group, or disintegration of the social fabric due to war, corruption or lack of civil authority can be at the root of child sexual abuse experienced in the wider community. As families may suffer from extortion, violence and eviction from the power elements of a community, so may their children be subjected to sexual abuse. Sexual abuse in the community often goes unreported, particularly if the abuser is a police officer, community leader, gang leader or other person with power in the community. In such circumstances, both the child and family fear physical reprisal as well as social ostracism.

Research has shown that while girls face greater threats of sexual abuse in the private sphere, boys face more risk in the public sphere, including in parks, markets, theatres and the perpetrator's house.<sup>35</sup>

### ***1.4.3 Educational settings***

Studies indicate widespread sexual abuse in schools throughout South Asia.<sup>36</sup> It is perpetrated both by teachers/school attendants and by the children's peers. Enticement of financial rewards or passing marks provides opportunities for coercion, as does the threat of punishment, given the prevalence of corporal punishment in educational settings. Children are usually reluctant to report abuse by staff because they fear reprisal or think they will not be believed. Few educational settings provide children with access to service providers outside the power structure who can help them. As a result, many abused children drop out of school.<sup>37</sup>

As children's participation in school increases throughout the region, school becomes the primary venue of social identification with a child's age group, and peer pressure can be very strong. Exerted through social networks and dominant children, it provides numerous opportunities for sexual coercion. Children submit to sexual abuse by other children for fear of being denounced by their peers, and they deny it for fear of being shamed.

In co-educational settings, girls face more non-physical forms of abuse, such as teasing and sexual language. But for boys in private settings, particularly in residential schools, physical

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<sup>35</sup> Child Workers in Nepal and UNICEF, 2005, 'Violence against children in Nepal: Child sexual abuse in Nepal: Children's perspectives'.

<sup>36</sup> Breaking the Silence Group, Bangladesh, 2003, 'Learning from experience: Case studies of non-commercial sexual abuse of children in Bangladesh'; Virani, P., 2000, 'Bitter chocolate: Child sexual abuse in India'; Child Workers in Nepal and Save the Children Norway/Nepal, 2003, 'Silent suffering: Child sexual abuse in the Kathmandu Valley'.

<sup>37</sup> Ibid. (all documents)

sexual abuse is reported to be prevalent.<sup>38</sup> Available evidence does not reveal whether boys or girls face more severe abuse in school settings in South Asia.

At the same time, teachers are in an optimal position to identify sexual abuse among their students, whether the source is the home, community or school. They meet the students regularly over long periods of time and may note psychological behaviours that could indicate abuse, such as depression, sexualized behaviours, deteriorating self-care or lack of concentration. As well, teachers often have the children's trust and are independent from the authority of the household and community power structures. However, the majority of teachers lack training on sexual abuse, children's rights and sexuality.<sup>39</sup> While they may recognize that a child is 'disturbed', they usually do not have the skills to identify the links to violence or abuse or the mechanisms to refer the child to help.<sup>40</sup>

#### ***1.4.4 Institutional settings***

Institutional settings for children include shelters, orphanages, prisons, juvenile detention facilities, boarding facilities and homes for children with disabilities, among others. As numerous studies have shown, the challenges of institutional settings can foster sexual abuse, both by staff and by other children.<sup>41</sup> In most institutional settings, individual children have no personal caregiver, and children are treated as a group rather than individually, by staff who are often poorly trained and poorly paid. Corporal punishment to 'discipline' children is routine in many institutions.<sup>42</sup> Often, institutional staff wield nearly absolute power over the children, which can be transformed into sexual abuse.

Many institutional settings are inadequately staffed, making it difficult to control child-on-child violence. Children sleep in dormitories, often unsupervised, which provides opportunities for unwanted sexual interaction among peers. In children's institutions as in adult prisons, hierarchies emerge, and weaker or younger children may be forced to become sexual partners of dominant children in exchange for their 'protection'. In twelve institutions investigated in South Asia, including those for boys and girls, caregivers reported routine sexual relationships between dominant and weaker/passive children.<sup>43</sup> While both caregivers and institutional directors recognize the need for ombudspersons, counsellors or other mechanisms allowing a child to seek help or report abuse, few institutions in South Asia provide them. There are no data indicating the relative frequency of sexual abuse of boys

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<sup>38</sup> For example, see Sahil, 1998, 'Child sexual abuse and exploitation in Pakistan'; Breaking the Silence Group, Bangladesh, 1997, 'Non-commercial sexual abuse of children in Bangladesh: A case study based report'; Child Workers in Nepal and UNICEF, 2005, 'Violence against children in Nepal: Child sexual abuse in Nepal: Children's perspectives'.

<sup>39</sup> Save the Children Alliance, 2005, '10 essential learning points: Listen and speak out against sexual abuse of girls and boys'.

<sup>40</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>41</sup> Tolfree, D., 1995, 'Roofs and roots: The care of separated children in the developing world'; International Save the Children Alliance, 2003, 'A last resort: The growing concern about children in residential care'.

<sup>42</sup> For example, see Oxfam Great Britain and Pearson, E., 2004, 'Gaps analysis on intervention strategies against trafficking in women in Nepal'.

<sup>43</sup> Frederick, J., 2008, 'Independent observation of government and NGO shelters during consultancies for UNICEF and Terre des hommes (Lausanne)'.

versus girls in institutions in South Asia or of the factors that contribute to the sexual abuse of boys in institutional settings.

#### **1.4.5 The workplace**

As in many parts of the developing world, work is a central feature of most childhoods in South Asia, especially among rural and poor children. While work has a gendered dimension, most is unpaid and done for the household. A large number of children do, however, engage in remunerated work outside the immediate family. For many such girls and boys, the workplace provides similar risks to sexual abuse and exploitation as do institutions. Children are often without caregivers or protectors, are subject to the absolute authority of their employers or pressure from older co-workers, and have little recourse to help and support. While most sexual abuse of children in the workplace is perpetrated by employers, children may also suffer such abuse from co-workers, police, labour officials and customers. Labour exploitation is often linked with sexual exploitation.<sup>44</sup> Workplaces in which children are hidden from public view, such as domestic service, and those in which children and adults are particularly exploited, such as sweatshops and bonded labour situations, provide the most opportunities for sexual abuse.

While recent publications have highlighted violence against children in the workplace,<sup>45</sup> the data are inadequate on the prevalence or conditions of sexual abuse of children who are working, particularly in South Asia.<sup>46</sup> It is difficult to compare the relative prevalence of sexual abuse of girls versus boys in the workplace, given that girls and boys typically perform different forms of work. In situations where both girls and boys work, including domestic service, workshops, brick kilns and factories, data indicate a higher abuse of girls.<sup>47</sup> Some forms of work limited to boys, such as assistants to overland truck drivers, appear to be frequently accompanied by sexual abuse.<sup>48</sup> However, not enough data have been collected to compare the sexual abuse of boys and girls in various work situations in South Asia.

### **1.5 Situations of Social Disruption**

Situations of social disruption such as armed conflict and natural disasters damage the integrity of family life for children. Both can result in physical injury and death, family dispersal, loss of homes and schools, failure of basic services and community disorder. In armed conflict, this situation can be exacerbated by hostility within the family or among community members, abduction of adults and children into military service, and fear of violence by soldiers and armed groups. In the resulting breakdown of communities and families, children can lose their 'safety nets' of protection and are at greater risk of sexual

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<sup>44</sup> International Labour Organization, 2006, 'Violence against children in places of work'.

<sup>45</sup> Ibid.

<sup>46</sup> United Nations General Assembly (Pinheiro, P.S.), 2006, 'Report of the independent expert for the United Nations Study on Violence against Children'.

<sup>47</sup> International Labour Organization, 2006, 'Violence against children in places of work'.

<sup>48</sup> For example: A. Hussain, 2000, 'Nowhere to hide', *In* J. Frederick (ed.), 'Fallen Angels: The sex workers of South Asia'.

abuse.<sup>49</sup> Death and abduction of parents can remove the child's primary breadwinners and protectors, often leaving younger children in the care of older siblings. Displacement often leads to children being separated from their families. In some countries, such as Afghanistan, boys face a greater risk of separation because social norms keep girls close to the family and community. Refugee communities throughout South Asia face high levels of rape, abduction and child trafficking.<sup>50</sup> For those who stay in their communities, the presence of soldiers increases the incidence of sexual abuse, among boys as well as girls. Boys in particular are subject to arrest and detention, which in turn can result in sexual abuse by military and prison personnel.<sup>51</sup>

## 1.6 Living on the Street

Children separated from their families who live on the street as well as unseparated children who work on the street are frequent victims of sexual abuse. These children face some of the highest reported incidence of sexual abuse and exploitation throughout South Asia.<sup>52</sup>

While open to the predations of local gangs, police, shopkeepers and community members, children on the street have limited adult protection – indeed, often their 'protection' is provided by older peers or gangs, who exact sexual favours in exchange for protection from theft, beating or rape by others.<sup>53</sup> Studies indicate that children living on the street routinely engage in both consensual and non-consensual sexual activities within their communities. Similar to the situation in institutions, weaker or younger children are often obliged to be sexual partners to dominant children. The high rate of sexual activity, coupled with the prevalence of substance abuse, means they are in great need of HIV/AIDS harm reduction initiatives, as are children in prostitution.

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<sup>49</sup> United Nations Office for the Coordination of Humanitarian Affairs, 2005, 'Indonesia, Sri Lanka, Maldives, Thailand: Earthquake and tsunami situation report No. 29'. <[www.undp.org/cpr/disred/documents/tsunami/ocha/sitrep29.pdf](http://www.undp.org/cpr/disred/documents/tsunami/ocha/sitrep29.pdf)>; Boyden, J. and de Berry, J. et al., 2002, 'Children affected by armed conflict in South Asia: A review of trends and issues identified through secondary research'.

<sup>50</sup> Boyden, J. and de Berry, J. et al., 2002, 'Children affected by armed conflict in South Asia: A review of trends and issues identified through secondary research'.

<sup>51</sup> Ibid.

<sup>52</sup> ECPAT International, 2006, 'Global monitoring report on the status of action against commercial sexual exploitation of children: Bangladesh'; ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'; P. Virani, 2000, 'Bitter chocolate: Child sexual abuse in India'; Child Protection Centres and Services Nepal, 2008, 'The abuse of street children in Kathmandu'; International Labour Organization/International Programme on the elimination of child labour; G. Subedi, 2002, 'Trafficking and sexual abuse among street children in Kathmandu'; ECPAT International and Pakistan Paediatric Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>53</sup> For example: ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

## 1.7 Growing up in Brothels

Many children of sex workers across South Asia are born and spend their childhoods in brothels.<sup>54</sup> Growing up in environments predicated on sexual exploitation, these children face a difficult childhood. The majority of female brothel-based sex workers in South Asia have entered the profession through trafficking and coercion, and thus most mothers of children living in brothels are themselves victims of sexual exploitation.<sup>55</sup>

Studies have shown that these children are highly vulnerable to sexual abuse by clients, guards, police and others around brothels.<sup>56</sup> Brothels in South Asia are highly criminalized environments, in which madams, brothel owners, local criminal groups and police exert strong power over the sex workers and their children. As the children grow older, mothers often have no means to protect them from sexual abuse, and they may themselves prepare their children to enter prostitution at a very young age.<sup>57</sup> There are inadequate data regarding the sexual abuse of boys who grow up in brothels. While there is little evidence that many of them end up working in prostitution, research shows that many boys later work in the brothel community, as pimps or guards or in ancillary activities.<sup>58</sup>

## 1.8 ‘Customary’ Sexual Abuse

The practice of wealthy influential men keeping young boys for sexual services still exists in some parts of Pakistan and Afghanistan.<sup>59</sup> This centuries-old practice, called *bacha baazi* (literally ‘boy play’) has long been known in India as well.<sup>60</sup> It is closely linked with boys working as dancers, also prevalent throughout India and Pakistan.<sup>61</sup> Keeping a pre-adolescent boy has long been a symbol of status and prestige for some wealthy landowners, businessmen and military commanders in Pakistan’s Northwest Frontier Province and adjoining areas of Afghanistan. Boys are kept in the household, often with the wives and servants, and provided with clothing, food and often special consideration. This situation can last until the boy

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<sup>54</sup> See for example, Frederick, J., (ed.), 2000, ‘Fallen Angels: The sex workers of South Asia; Blanchet, T. (1996). *Lost Innocence, Stolen Childhoods*’.

<sup>55</sup> Frederick, J., (ed.), 2000, ‘Fallen Angels: The sex workers of South Asia’.

<sup>56</sup> Save the Children Sweden – South and Central Asia Region, 2007, ‘Mapping Save the Children’s response to violence against children in South Asia’.

<sup>57</sup> Blanchet, T., 2000, ‘In her mother’s footsteps’, *In* J. Frederick (ed.), ‘Fallen Angels: The sex workers of South Asia’.

<sup>58</sup> *Ibid.*

<sup>59</sup> ECPAT International and Pakistan Paediatric Association, 2006, ‘Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)’; Haber, D., 1998, ‘The pleasure boys of Pakistan’s Northwest Frontier’ (unpublished manuscript); Reuters (Parsons, C.), 7 July 2008, ‘UN envoy denounces hidden abuse of Afghan boys’, <[www.reuters.com/article/topNews/idUSN0743087620080707?sp=true](http://www.reuters.com/article/topNews/idUSN0743087620080707?sp=true)>.

<sup>60</sup> Murray, S.O. and Roscoe, W. (eds), 1997, *Islamic Homosexualities: Culture, history and literature*.

<sup>61</sup> Lahiri, A., and Kar, S., 2006, ‘Dancing boys: Traditional prostitution of young males in India: A study report on launda dancers’; ECPAT International and Pakistan Paediatric Association, 2006, ‘Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)’.

reaches puberty. Such boys may be at risk of sexual exploitation in prostitution, or they may marry and conduct relatively normal lives.<sup>62</sup>

## **1.9 Sexual Exploitation of Boys in Pornography**

Urban areas throughout South Asia have Internet cafés at which children are routinely exposed to pornographic materials depicting adult sexual acts. Of the materials reviewed in producing this report, no evidence was found of child abuse through exposure to child pornography. Research is lacking on grooming and the use of chatrooms to engage in exploitation of children through pornographic discussions or to arrange meetings for sexual activities, nor is there research on the use of webcams to encourage exploitation of children through indecent exposure. In only two countries, India and Sri Lanka, is there concrete evidence of children being used in the production of pornographic materials.<sup>63</sup> In both countries, this has been primarily connected with the abuse and exploitation of children by foreign perpetrators known to photograph and videotape sexual acts with children for both personal and commercial use.

## **1.10 Other Forms of Sexual Exploitation of Boys**

### ***1.10.1 Prostitution***

The sexual exploitation of children through prostitution in South Asia takes myriad forms, many of which are hidden to the public eye. The prostitution of children through brothels, usually facilitated by trafficking, is well documented, but may comprise a minority of the children in prostitution, particularly boys. Many brothels with female sex workers also provide the services of boys, and brothels with transgender or transvestite sex workers are prevalent particularly in western India and Pakistan.

Public places such as the street and bus stands are common contact sites for sexual exploitation of boys in South Asia, and sexual activities are conducted in parks, hotel rooms and other convenient venues.<sup>64</sup> Contact may be arranged by pimps, friends, restaurant owners and other intermediaries. Many boys sexually exploited in prostitution are attached to shops, restaurants and bars, and this is where they contact clients. Little researched but increasingly recognized is the number of boys, often school-going children from urban middle-class families, who conduct prostitution for male and female clients by contact through mobile phones and the Internet.<sup>65</sup>

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<sup>62</sup> Lahiri, A., 2008, 'In Afghanistan' (report prepared April 2008 by Agniva Lahiri on behalf of PLUS Kolkata for MTV Europe); Haber, D., 1998, 'The pleasure boys of Pakistan's Northwest Frontier (unpublished manuscript); Reuters (Parsons, C.), 7 July 2008, 'UN envoy denounces hidden abuse of Afghan boys'.

<sup>63</sup> National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, 'A report on trafficking in women and children in India 2002-2003'; ECPAT International and South Asia Partnership International, 2003, 'A situational analysis of child sex tourism in Sri Lanka (Negombo, Colombo, Mt. Lavinia, Hikkaduwa, Galle, Anuradhapura and Trincomalee)'.

<sup>64</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'; ECPAT International (Akula, S.L.), 2006, 'Situational analysis report on the prostitution of boys in India (Hyderabad)'.

<sup>65</sup> Personal correspondence with Jeremy Southon, CWS Nepal, A.K.M. Mustaque Ali, INCIDIN Bangladesh and Deep Purkayastha, Praajak, India, among others, no date.

Many children are forced into casual prostitution for survival, though they do not rely on it for their entire income. Typically this form of exploitation involves children working in restaurants or on the street.<sup>66</sup> In other circumstances, sexual exploitation of boys through prostitution is linked with traditional practices, such as the custom of having boys dance at marriage processions and ceremonies in some parts of India and Pakistan.<sup>67</sup>

### ***1.10.2 Exploitation in travel and tourism***

Research indicates that providing children for sexual services to international tourists is prevalent in certain areas of South Asia.<sup>68</sup> To date, travelling sex offenders have generally been identified as foreigners, primarily non-South Asians, linked with external tourism industries.<sup>69</sup> The focus on tourists from outside the region has resulted in significant international interventions to curtail these practices, but sexual exploitation of children by tourists and business travellers within South Asia has received relatively less attention.

Sexual exploitation of children by foreign child sex exploiters (primarily from Western industrialised countries, but also from the Middle East and East Asia) has taken place in Sri Lanka and the state of Goa (India). Exploitation by international tourists has also been noted in Nepal<sup>70</sup> and in Indian tourist destinations such as Agra, Delhi and Jaipur.<sup>71</sup> Pakistan and Bangladesh have shown little evidence of child sexual exploitation by international tourists.

Sexual exploitation by travelling nationals and those from neighbouring South Asian countries – whether the tourism is directly intended for sex or is an auxiliary activity – is little recognized in South Asia. However, it appears to exist in India, Pakistan, Nepal and Sri Lanka. Prostitution, including sexual exploitation of children, has long been noted at local tourist destinations, including religious pilgrimage sites. Research on ‘local’ (as opposed to international) travelling child sex offenders is lacking.

Trafficking *per se* is not a form of sexual exploitation, although it is routinely conflated with prostitution. Trafficking is one mechanism by which a child may enter a situation of sexual or other type of exploitation. Despite the dominance of this recruitment mechanism in legislation, policy and programming, ‘trafficking’ may not be the most prevalent mechanism by which boys become commercially sexually exploited in South Asia. Boys often enter situations of sexual exploitation from intermediate high-risk situations, including street living, the workplace, Internet contacts and the influence of peers, family, gangs and community members. Research to date has emphasized children, particularly girls, entering sexually exploitative situations through trafficking. However, there remains inadequate

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<sup>66</sup> Hussain, A., 2000, ‘Nowhere to hide’, *In* J. Frederick (ed.), ‘Fallen Angels: The sex workers of South Asia’.

<sup>67</sup> Lahiri, A and Kar, S., 2006, ‘Dancing boys: Traditional prostitution of young males in India: A study report on launda dancers’.

<sup>68</sup> ECPAT International, 2003, ‘A situational analysis of child sex tourism in India, Nepal and Sri Lanka’; Save the Children Alliance, 2005, ‘10 essential learning points: Listen and speak out against sexual abuse of girls and boys’.

<sup>69</sup> For example: O’Connell Davidson, J. and Taylor, J.S., 1995, ‘Child prostitution and sex tourism: Goa’. India

<sup>70</sup> Child Workers in Nepal and ECPAT International, 2003, ‘A situational analysis of child sex tourism in Nepal (Kathmandu Valley and Pokhara)’.

<sup>71</sup> ECPAT International, 2003, ‘A situational analysis of child sex tourism in India, Nepal and Sri Lanka’.



knowledge of the intermediate situations of child vulnerability, from which others may lead the child into sexual exploitation such as prostitution or pornography.

The process by which a boy becomes involved in prostitution often involves a complex sequence of interlinked actors and events that isolate a boy from his family safety net and disempower him. The process may begin with sexual abuse in the home, as noted by researchers in Sri Lanka.<sup>72</sup> The boy's vulnerability is often exacerbated by entry into unprotected labour situations and by family separation and migration.<sup>73</sup> In some cases, offenders sexually exploit boys who are addicted to tobacco or hashish, who readily exchange sex for drugs or money.<sup>74</sup> Many boys are forced through violence to have sex in exchange for money by gang members, older boys or local community members.<sup>75</sup> Through a chain of increasingly disempowering events, boys find themselves captive in prostitution, as if in an invisible prison, maintained through fear, force, social stigma, uneven power relationships, lack of options and dependency.<sup>76</sup>

Many enter prostitution through the influence of peers or friends, particularly boys separated from their families who are living on the street or working in exploitative labour conditions. These boys may feel forced by a lack of alternatives or the desire to have a ready source of income. Often, prostitution is seen as an income-generation option that pays more than other work, and with seemingly minimal dangers.<sup>77</sup> In the case of sexual exploitation by foreign perpetrators, boys may be provided food, shelter, clothing and education as well as money for themselves and their families, all in exchange for sex. Families themselves may encourage boys to enter such situations for the financial benefit of both the boy and the family.<sup>78</sup>

Boys exploited through prostitution with other males, particularly boys who manifest feminine characteristics, may do so because social discrimination deprives them of other means of employment.<sup>79</sup> However, such exploitation (as with boys living on the street) often

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<sup>72</sup> International Labour Organization/International Programme on the Elimination of Child Labour (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>73</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>74</sup> ECPAT International (Akula, S.L.), 2006, 'Situational analysis report on the prostitution of boys in India (Hyderabad)'; ECPAT International and Pakistan Paediatric Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>75</sup> International Labour Organization/International Programme on the Elimination of Child Labour (G. Subedi), 2002, 'Trafficking and sexual abuse among street children in Kathmandu'; ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'; ECPAT International and Pakistan Paediatric Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>76</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>77</sup> ECPAT International and Pakistan Paediatric Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>78</sup> International Labour Organization/International Programme on the Elimination of Child Labour (Amarasinghe, S. 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'; Personal correspondence with Jeremy Southon, CWS Nepal.

<sup>79</sup> ECPAT International (Akula, S.L.), 2006, 'Situational analysis report on the prostitution of boys in India (Hyderabad)'.

involves coercion by peers who stand to benefit.<sup>80</sup> Entry into prostitution may be a requirement for social integration, as with boys entering *hijra* communities<sup>81</sup> that support themselves through prostitution. Seeking a supportive and accepting community in response to social discrimination due to their effeminacy, these boys must enter a situation of sexual exploitation in prostitution to become a member of that community.<sup>82</sup>

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<sup>80</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>81</sup> Communities of men who have been castrated and live as a 'third gender'.

<sup>82</sup> Nanda, S., 1999, 'Neither man nor woman: The hijras of India'; Menon, S., 2000, 'An Ali of Chennai', 'In J. Frederick (ed.), *Fallen Angels: The sex workers of South Asia*'.

## **2.0 SOUTH ASIA OVERVIEW**

### **2.1 Research Findings**

Evidence-based information is lacking on the sexual abuse of both boys and girls and on the sexual exploitation of boys. The majority of studies to date have emphasized trafficking for sexual exploitation and have been focused on women and girls. Research on trafficking has concentrated on recruitment, transportation and sale of victims; little research has been conducted on the subsequent situations of exploitation into which children are trafficked.

While some qualitative research exists on the sexual abuse and sexual exploitation of boys (referenced in this paper), it is insufficient to provide the comprehensive picture needed to develop legislation, policy and programming. Research on the sexual exploitation of boys has been neglected in part due to the lack of conceptual distinction between sexual exploitation and trafficking. As noted in this document, few boys in South Asia are directly trafficked<sup>83</sup> into sexual exploitation, and the physical or psychological coercion of boys into prostitution has not received much attention. Consequently, little has been known about boys in prostitution in South Asia until the past decade.

As has been noted, little research has been conducted worldwide on sexual violence against men and boys,<sup>84</sup> and research on sexual abuse generally is neglected in South Asia.<sup>85</sup> The reporting of sexual abuse is challenging, reporting mechanisms are few and governments rarely have shown the motivation or ability to collect statistics on abuse in settings such as homes, schools, prisons or refugee camps. Research is also constrained due to the hidden nature of abuse and the attached stigma and shame, which prevent victims from sharing their experiences.

Some countries of South Asia are beginning to fill the knowledge gap regarding both child sexual abuse and sexual exploitation of boys. A number of organizations including End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT International), the International Labour Organization (ILO) and UNICEF have supported qualitative research on these issues in the past five years, and Save the Children has been instrumental in providing overviews of children's views on sexual abuse and in conducting research on issues concerning men and boys.

### **2.2 Status of Information by Country**

#### ***2.2.1 Afghanistan***

Among the countries of South Asia, Afghanistan is most lacking in research on sexual abuse of children and sexual exploitation of boys, although the International Organization for

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<sup>83</sup> Boys may be trafficked into other forms of exploitation, such as hazardous labour, and then end up in sexual exploitation, rather than being directly trafficked into sexual exploitation.

<sup>84</sup> World Health Organization (Krug, E.G. et al.), 2002, 'World report on violence and health'.

<sup>85</sup> Save the Children, 2004, 'Child sexual abuse in South Asia: A discussion paper'. (Regional review submitted to the UN Study on Violence against Children.)

Migration (IOM) has recently supported research on human trafficking. This gap is primarily due to the difficulties of conducting research in a conflict-affected country whose social customs prohibit discussion of sexual topics, as well as donor agencies' lack of resources to support research on these issues.

### **2.2.2 *Bangladesh***

Bangladesh has one of the largest knowledge bases in the region on child sexual abuse and sexual exploitation of boys. Several NGOs, including INCIDIN and Breaking the Silence, have conducted good research. International agencies such as Save the Children, UNICEF and ECPAT International have provided funding and assisted in focusing the research on areas of greatest significance. Although much more remains to be done, Bangladesh now has adequate statistical data on the sexual abuse of urban children and qualitative data on exploitation of boys through prostitution in Dhaka. There remain gaps in research on the sexual abuse of children residing in rural areas.

### **2.2.3 *India***

Considering the country's size and resources, the knowledge base on child sexual abuse and sexual exploitation of boys in India may be considered to be relatively weak. This is partly due to a long-standing focus on the abuse, exploitation and trafficking of females to the neglect of males; the capacities of NGOs in conducting research; the relative scarcity of professional research organizations to conduct work on this topic; the vast size of the country; and its widely varying situations of abuse and exploitation. The scope of India is so broad that the conclusions of recent situation analyses of boys exploited through prostitution, conducted with support from ECPAT International, cannot be generalized to the whole country.

### **2.2.4 *Nepal***

Although a small country, Nepal has recently developed a significant knowledge base on child sexual abuse and sexual exploitation of boys through prostitution due to research efforts by several NGOs, such as Child Workers in Nepal (CWIN), along with guidance and support from the donor community. Until the past few years, almost all research focused on trafficking of women and girls, and much of it was poorly designed and contained unreliable data. Almost all research to date has focused on the Kathmandu Valley, and information on child sexual abuse and exploitation in rural areas and other urban areas remains to be collected.

### **2.2.5 *Pakistan***

Similar to Bangladesh, Pakistan has a good knowledge base on child sexual abuse and the sexual exploitation of boys. Many NGOs and local researchers have strong research skills and have been supported by the donor community. Organizations such as the Pakistan Paediatric Association (PPA) and the Pakistan Voluntary Health and Nutrition Association have long experience in the health and nutrition sector, and have applied the skills of those disciplines to research on sexual abuse and exploitation. Other organizations, such as Rozan and Sahil,

have long experience working with abused children and women. This has given them access to target communities in a social environment that discourages the discussion of sexual abuse and exploitation.

### **2.2.6 Sri Lanka**

Sri Lanka started investigating sexual abuse of children and sexual exploitation of boys in the 1980s, earlier than any other country in South Asia. Nevertheless, the current knowledge base on child sexual abuse and sexual exploitation of boys is relatively weak. While research has taken place, reliable quantitative data on sexual abuse of children are lacking. Most qualitative research on the situation of boys has some limitations; it consists primarily of case studies and descriptions of the environment for sexual exploitation in travel and tourism and requires further analysis

However, despite some research limitations, academics have been analysing child sexual abuse and exploitation in Sri Lanka for the past 15 years. The academic discourse on the issues is the most sophisticated in the region, among other things exploring the linkages between sexual abuse and exploitation and examining the effect of family dysfunction and domestic abuse on children entering prostitution. This discourse has directly influenced legislation, policy and programming, resulting in a focus on addressing problems in families and communities that increase children's vulnerability to abuse and exploitation.

### **2.3 Research Limitations**

With few exceptions, a primary challenge in South Asia is the lack of linkage between research and the development of legislation and policies. Governments have paid little attention to research findings, and study recommendations generally are disregarded by governments, donors and NGOs alike.

Similarly, stakeholders throughout the region have made little effort to identify key knowledge needs and establish research priorities. Research is often planned with generalized objectives such as 'internal trafficking' or 'the situation of street children', with inadequate consideration of how to use research outputs in designing interventions. Key issues such as linkages between sexual abuse and exploitation, the impact of family dysfunction and the sexual abuse of boys in the work setting have not yet been adequately addressed.

The quality of research is a concern throughout the region. Few NGOs have research skills, and the data in many documents entitled 'research' are not reliable. Little collaboration has taken place between professional researchers and NGOs, and there has been little training of NGO staff in research methodologies.

There are few provisions or procedures for quality assurance of research on sexual abuse, particularly on trafficking in the region. Much research fails to employ basic professional methods, and findings are typically not submitted for peer review. NGOs frequently use quantitative methods on small samples of informants, producing unreliable 'statistics' that are generalized to large populations. Samples tend not to be clearly identified, and a number of

studies claiming to investigate the trafficking or abuse of children have been conducted exclusively on girls. Basic disaggregation of data, such as by gender or age, is often lacking. Few NGOs have the skills to conduct qualitative research, which is often confused with collecting case studies, and information is inadequately verified by triangulation or other methods.

Also notable is the lack of protection for child respondents in research on trafficking and abuse. Among the dozens of studies reviewed for this paper, only a few had applied informed consent procedures, confidentiality protocols or other protection mechanisms that are ethically obligatory in other disciplines, such as research on HIV/AIDS.

Access to information on sexual abuse and exploitation of children is difficult, a problem confounded by the failure to share research outputs among specialized development sectors. Research on the sexual abuse and exploitation of boys may be conducted by agencies and individuals focusing on trafficking, HIV/AIDS, migration, children living or working on the street, violence against children, children affected by conflict, juvenile justice and sexual abuse, among others, but dissemination of the research between these communities is often inadequate. Similarly, research conducted by academics is often not readily available to development professionals. Comprehensive annotated bibliographies of research on abuse and child exploitation in prostitution are lacking, although this is starting to be addressed by digital libraries on the Internet.<sup>86</sup> In addition, when studies are available, it is difficult to compare data because of the wide variation in methodologies.

## **2.4 Legislation**

Legislation does not fully address the sexual abuse of boys or girls or the sexual exploitation of boys in any of the countries of South Asia. With the exception of Sri Lanka and the state of Goa in India, legislation does not entirely address all aspects of prevention and victim protection. The fact that boys are sexually abused or exploited in prostitution is generally ignored. The review of commentary on legislation for this paper revealed almost no reference to boys. Specifically, legal commentary on rape referred only to the rape of women and girls.

Several countries of South Asia have complex legal systems combining customary law, religious law, British common law and modern legislation. In all countries, comprehensive legislation is lacking on specific issues, such as exploitation of children in pornography or sexual abuse. Offences are addressed through a variety of laws, some dating to the nineteenth century and most inadequately defining the crime. No laws address sexual abuse comprehensively, and the complexity of sexual exploitation is inadequately addressed in law by the focus on either trafficking or brothel-based prostitution.

Almost all legislation contains definitions of child trafficking, sexual exploitation, sexual abuse and child pornography that do not correspond with accepted international definitions. Children aged 16 to 18, both boys and girls, are poorly protected by law from abuse and

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<sup>86</sup> For example, refer to <[www.childtrafficking.com](http://www.childtrafficking.com)>, a digital library of trafficking, migration, sexual exploitation and similar issues.

exploitation. The legal definition of a child is problematic in much legislation and varies according to gender in some countries.

Laws pertaining to sexual exploitation in South Asia are constrained by the interpretation of sexual exploitation either in the context of trafficking or in the context of brothel-based prostitution, neither of which are generally applicable to the sexual exploitation of boys. At the same time, definitions of ‘trafficking’ and ‘prostitution’ are inadequate in almost all legislation and often fail to make a clear distinction between children and adults. Anti-trafficking laws in South Asia afford little protection to boy victims of sexual exploitation. Trafficking laws criminalize acts of physical coercion such as ‘abducting’, ‘buying’, ‘transporting’ and ‘selling’, which don’t easily apply to boys. Legislation in most countries contains no reference to forcing a victim into prostitution by grooming and psychological coercion, peer influence, taking advantage of the child’s vulnerability or coercing the parent or guardian.<sup>87</sup> At the same time, the crimes encompassed in legislation on prostitution are generally limited to brothel-based sex work, which fails to adequately address prostitution on the street or in the workplace, which is the situation for many boys.

The body of legislation addressing sexual abuse in all countries is fragmented and scattered among numerous laws. No country in the region has legislation that fully encompasses the multiple forms of sexual abuse, including indecent touching, rape, sexual harassment and molestation, using indecent sexually explicit language towards a child as well as indecent exposure of sexual activities and showing children pornographic material. The Penal Codes of Bangladesh, India and Pakistan do not address the sexual abuse of children as a separate offence, and many crimes against children are adjudicated under adult law. Most countries identify and punish only a few forms of sexual abuse. Comprehensive laws on sexual abuse, with clear definitions that are in accordance with the definitions in international human rights standards, are needed in all countries.

The gaps in legislation on sexual abuse have a significant impact on boys. Few national legal systems recognize the rape of boys, and in countries that retain the British Penal Code, the definition of rape is limited to vaginal penetration, although in some cases amendments have remedied this gap. At the same time, there are severe laws against anal intercourse, and child victims of ‘sodomy’ are frequently treated as criminals. In several countries of South Asia, the police use antiquated sodomy laws to punish homosexual behaviour. Afghanistan, Pakistan and Sri Lanka all have laws forbidding ‘immoral’ sexual practices, and the police frequently use these laws to punish boys sexually exploited in prostitution and homosexuals. In July 2009, the Delhi High Court in India declared Section 377 of the Indian Penal Code, criminalizing ‘unnatural sexual acts’, to be unconstitutional regarding consenting adult partners.

With some interpretation, laws forbidding the rape of boys as well as other forms of sexual abuse such as sexual harassment and molestation can be found in the legislation of most countries. However, these laws are seldom used on behalf of sexually abused boys. Very few

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<sup>87</sup> According to international human rights standards on human trafficking, the requirement of consent is irrelevant regarding persons under the age of 18 years. This follows from the UN Palermo Protocol art. 3, however, this is not established within national legislation of some countries in the region.

laws in South Asia identify females as possible perpetrators of sexual abuse, and four of the six countries under consideration in this study have no laws against incest.

Legislation that criminalizes exposing children to pornography, viewing pornography that depicts children or using children in the production of child pornography are weak throughout the region. Many laws retain Victorian era moral standards against materials that are likely to affect morality rather than addressing the deleterious effect of sexual abuse and exploitation on the child, such as India's Indecent Representation of Women (Prohibition) Act, 1986.

The laws against pornography in South Asia have two significant gaps. First, most laws are outdated, forbidding the production of pornographic literature, statuary and photographs but failing to include Internet pornography or in some cases films/videotapes. While some countries have developed laws to address pornography over the Internet and Communication Technologies, they typically provide minimal punishment to offenders and fail to encompass the full range of abuse that can be perpetrated through these new technologies. Most laws simply add electronic images to the existing list of pornographic materials. Few laws address child sexual abuse and exploitation through chat rooms, the grooming and solicitation of children for sex using chat rooms and other electronic communication, and enticing children to expose themselves through webcams and other electronic means.

Second, most laws fail to reflect that pornography can encompass both child sexual abuse (as in exposure to pornographic materials) and child sexual exploitation, as in using children to commit sexual acts for the production of sexually abusive materials. This latter offence is often considerably more serious, but in many laws it is conflated with exposing children to pornography or ignored altogether. No laws in South Asia contain adequate punishment for forcing children into sexual acts for the purpose of child pornography.

## **2.5 Policies**

Few policies in South Asia directly address child sexual abuse. With the exception of Sri Lanka, national policies on trafficking do not adequately address sexual exploitation of boys, nor do they comprehensively address the social causes of sexual exploitation. The sexual abuse and sexual exploitation of boys could be better addressed in South Asia within broader national plans of action (NPAs) for children. These documents identify a wider range of vulnerable children than do NPAs focusing only on trafficking. They also identify more of the immediate causes of vulnerability, such as family fragmentation, migration, street living and conflict. Yet while these broader NPAs encompass the needs of sexually abused and exploited boys, they often do not provide detailed strategic responses to effectively respond to those needs.

Gender discrimination and patriarchal structures are given as root causes of exploitation in most NPAs, although mechanisms to address these issues are not clearly defined. However, there is neither a strong focus on boys nor a clear recognition of the differing vulnerabilities and risk factors of boys and girls. 'Child' is often interpreted as 'girl' in relation to abuse and exploitation.



**Afghanistan's** National Plan of Action against Child Trafficking (2004) includes activities on protection, prevention, recovery, reintegration and child participation. But it addresses trafficking from a law enforcement perspective and does not envision the development of a national, integrated, community-based child protection system that would tackle the immediate causes of trafficking, which also relate to sexual abuse and exploitation. On the other hand, the country's National Strategy for Children at Risk, while not directly addressing child abuse, encompasses a broader scope of child protection than does the trafficking NPA. It addresses family violence, erosion of family safety nets and lack of government and NGO coordination in addressing children at risk. It also sketches a plan for a national child protection system over its four-year span.

**Bangladesh's** National Plan of Action against the Sexual Abuse and Exploitation of Children (2002) is notable in South Asia for directly addressing sexual abuse as well as sexual exploitation. The NPA includes measures that address issues facing boys, such as the risks of migration, abuse by staff of residential institutions and creation of abuse reporting mechanisms and safe havens for at-risk children. The NPA was supplemented by the more recent National Anti-Trafficking Strategic Plan of Action. It attempts to clarify the roles of government agencies and NGOs and coordinate actions for prevention, rescue, repatriation, prosecution and reintegration of trafficking victims. However, challenges remain; the documents do not fully integrate the role of NGOs, and they establish a complex bureaucracy that can hamper efficient implementation of programmes.

**India's** Report and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children (1998) addresses the needs of women and girls in the trafficking process. But it does not address the broader scope of sexual exploitation or the links between sexual abuse in homes, community and schools and vulnerability to sexual exploitation. While the plan mentions migration, it refers only to 'migrant women'. The Integrated Plan of Action to Prevent and Combat Human Trafficking, with Special Focus on Children and Women, not yet formally approved, similarly conflates 'trafficking for sexual exploitation' with 'sexual exploitation' as such. Thus it does not address key issues relevant to the sexual exploitation of boys, including separation from family, and the linkages between sexual exploitation and abuse in the family, community and workplace.

The country's National Plan of Action for Children, however, is a more inclusive document, intending 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.' This NPA places specific focus on child sexual abuse, separating it from child trafficking, and addresses sexual abuse within the home by family members as well as the abuse of children in institutions.

**Nepal's** National Plan of Action against Trafficking of Women and Children for Commercial Sexual Exploitation (2001) is similar to the trafficking NPAs of most other countries in the region, although it is the least carefully developed. The document does not clearly indicate a strategy, fails to clarify mechanisms for its implementation and does not integrate the activities of NGOs or community-based organizations. Instead it relies on government

structures at district and local levels, which lack the resources, will or mandate to carry out anti-trafficking programmes.

The 10-Year National Plan of Action for Children addresses sexual exploitation, abuse and harassment and also promotes strengthening of monitoring and response to child abuse at the local level. It addresses some issues of concern to boys, including child labour, and promotes the development of mechanisms to protect children living on the street. However, as with the trafficking NPA, it depends on government structures to implement activities and does not extensively involve NGOs or community participants.

**Pakistan's** National Plan of Action for Combatting Human Trafficking (2005) is consistent with past government interventions to address trafficking, framed largely in terms of addressing illegal migration and human smuggling as well as trafficking. It does not address situations of child vulnerability that are conducive to trafficking, and its protection activities are primarily focused on establishing and operating shelters to protect victims and witnesses. The National Plan of Action against Child Abuse and Exploitation, appended to the National Plan of Action on Children in 2006, inadequately covers activities needed for prevention, protection, recovery and rehabilitation, and does not fully address sexual abuse. The NPA does not include preventive outreach to high-risk children, such as children living on the street or working, or the development of abuse reporting systems, nor does it address the causes of vulnerability in families and communities.

**The Sri Lankan** National Plan of Action on Trafficking in Children (2001) is exceptional in South Asia for recognizing family dysfunction as a key cause of trafficking and for addressing the common root causes, such as poverty and lack of education. While this NPA does not identify certain elements of family dysfunction, such as domestic violence, as contributing to trafficking, it does recognize the family's need for health care and economic and social stability. Community-based development initiatives are endorsed as means to strengthen the family's protection of the child. Notably, the NPA addresses the excessive institutionalization of children in Sri Lanka by encouraging community and family involvement in rehabilitation. While not directly covered in the NPA, child sexual abuse is addressed by legislation establishing the National Child Protection Authority, an interdisciplinary governmental body mandated to address sexual abuse, sexual exploitation, trafficking, forced labour and illegal adoption.

Aside from the relative strengths or weaknesses of national policies, the entire region – in fact, the entire world – faces the challenge of putting policies into practice.<sup>88</sup> The inability of governments to implement policies stems from a variety of challenges and barriers. Policy development is inhibited by lack of evidence-based criteria, including gender-disaggregated data, as well as information on what works and what doesn't, due to lack of monitoring and evaluation of programmes. Thus, poorly informed policymakers often take a simplistic view of complex issues such as child sexual abuse or the sexual exploitation of boys. This may explain, for example, the omission of precise mechanisms in most policy documents to

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<sup>88</sup> Oak Foundation (Asquith, S. and Turner, E.), 2008, 'Recovery and reintegration of children from the effects of sexual exploitation and related trafficking'.

strengthen family and community protection of children. A key source of information for policy development, children's views and experiences, was not tapped during the development of many of the policies in South Asia. Those policies developed with children's participation more fully address key issues such as the immediate causes of vulnerability and the participation of families and communities in the recovery and reintegration of exploited children.

In South Asia, most countries' policies, particularly those on trafficking, lack precise objectives, inadequately define their target groups and often do not encompass the full spectrum of issues requiring attention to protect children from abuse and exploitation. As noted above, policies that focus on trafficking often ignore the broader scope of sexual exploitation, not considering the experiences of boys.. Nor do they fully address the factors that contribute to children entering potentially exploitative situations, such as through migration, street living or as a result of family problems. Some policies, such as India's, are primarily focused on girls and women, excluding areas of concern to boys. Others, such as Pakistan's policies, focus more on prevention through law enforcement than through addressing the social causes of sexual exploitation. With the exception of Sri Lanka, emphasis on rehabilitation and reintegration of child victims in most NPAs is based on institutional interventions; most lack activities to strengthen families and communities to rehabilitate and reintegrate exploited children.

In the area of sexual abuse and exploitation, as on other social sector issues, policies in South Asia and elsewhere frequently lack adequate mechanisms for implementation and monitoring. Contributing to this, many NPAs have poorly defined strategic objectives and lack clear descriptions of actions needed to achieve them. In addition, it is often not clear to what extent NPAs are being implemented, or if they are merely statements of desired policies and outcomes. Although NGOs conduct most interventions addressing prevention, protection and care, some policies sideline their contribution, designating government structures as responsible for the majority of interventions. The contribution of families, communities and children themselves are seldom included in strategies for implementation. In addition, many government agencies cannot realistically fulfil policy commitments, given their many demanding priorities. During the civil conflict in Nepal, for example, police were unable to conduct border surveillance as dictated by the anti-trafficking policy because they were overburdened with maintaining law and order and defending police posts from attacks by rebel forces.

Challenges in implementing policies include lack of financial resources and professional capacity, conflicting agendas among stakeholders and differences in understanding of the issues. The difficulty of coordination between stakeholders, between government ministries and between government and NGOs – and the absence of key focal points for coordination – is frequently cited as a barrier to implementation. Stakeholders, including different government agencies, often have different resources and funding priorities. At the same time, policies often do not accommodate realistic funding to implement the intended activities, either leaving activities unaccomplished or placing the burden of attracting funds on the NGOs.

## 2.6 Programmes

Developing an inventory or overview of programme responses in South Asia is challenging because few comprehensive assessments or evaluations of programmes have taken place at either national or regional levels. Information about programmes, particularly those that address the protection and care of children at risk, usually repeats accounts of well-known activities conducted by a small number of high-profile, urban NGOs and government projects, excluding the numerous less visible activities conducted throughout the region. Due to the lack of information and the inability to conduct field investigations, this document suffers from the same gap.

The literature review has shown extensive fragmentation of programming for individual populations of sexually abused or exploited boys among many specialized development ‘communities’. For example, programmes addressing children living on the street in Dhaka may originate from NGOs specializing in children of the street, HIV/AIDS, migration, child participation, sexual abuse, legal advocacy and others. Linkages between the organizations are frequently inadequate, and many have different agendas and understanding of the issues.

The fragmentation of programming for individual populations is also prevalent within individual development ‘communities’, often the result of poor linkages between donor agencies. This is well illustrated by NGO shelters for trafficked children supported by multiple donors for ‘capacity-building’. This can result in diffuse interventions as the NGOs attempt to accommodate the objectives of diverse and sometimes contradictory proposals and capacity-building strategies.

A frequently discussed but seldom addressed problem is the monitoring and evaluation of programmes. It is typically weak to non-existent due to inadequate programme planning and design. Limitations of time and resources frequently preclude carrying out the key steps of preliminary situation assessments; careful identification of the target group and its needs; and the development of long-term, detailed strategies. These constraints are primarily imposed by donors due to short funding cycles (often less than two years), with planning seldom extending beyond the immediate funding cycle. Local representatives of donor agencies themselves are constrained by uncertainties about future funding to extend programmes and requirements to exhibit ‘outputs’ to their management during the limited programme period.

The virtual absence of monitoring and evaluation of programmes to prevent and respond to sexual abuse and exploitation of children also stems from a lack of clarity as to its function. Most programme administrators and their donor counterparts view ‘monitoring’ as the submission of periodic status reports. While reporting is necessary, the essential function of monitoring – adjusting the programme according to observed needs in order to make it more effective – is seldom carried out. Often NGOs are neither able nor inclined to change programme activities in midstream. Typically a programme, once initiated, carries on whether or not it is working well.

Programme evaluations, like monitoring, are often reports of what happened and what outputs were produced, not investigations of effectiveness. They seldom clarify the successes and

constraints with the intention of improving subsequent programming. As with planning, evaluations are seldom intended to provide insight into the programme's evolution because short funding cycles often mean that it will be scaled down, stopped or altered according to the donor's agenda.

Programme evaluations are often constrained by the absence of criteria for judging what constitutes 'effectiveness'. The term can comprise both individual and collective characteristics, for example, how it has improved outcomes for children and what has changed in the wider community and society, respectively. These criteria are usually identified through preliminary assessment, planning and strategizing and by evidence-based information on the programme's ongoing achievements and difficulties. However, 'effectiveness' is difficult to assess when the programme addresses intangible objectives such as improvement of mental health, resistance to abuse or strengthened family protection. In South Asia as elsewhere, measuring mental health and social health outcomes is challenging, and it often takes longer than one funding cycle to show results.

Children can provide important information for evaluating project outcomes, but this research found that few programmes include children in the monitoring or evaluation process. Hence many evaluations depend on reporting physical outputs and numbers, not outcomes such as changes in the quality of life.

The primary constraints to project implementation appear to be limitations in funding and human resources. Funding constraints arise primarily due to inadequate planning. The budgets in project proposals are often simple, generic and hastily constructed. They tend to overestimate the output of project workers and underestimate the financial resources needed to accomplish the objectives. In South Asia, as in much of the developing world, programmes often have difficulties securing and retaining adequately trained and motivated staff.

Training itself is a considerable constraint across South Asia, due to lack of resources and to poorly defined and frequently low standards. The trainings offered in South Asia in areas such as counselling, research, interviewing and family intervention are usually little more than orientation on the background of the subject; they tend to lack focused development of skills. Job competencies and training standards are lacking as ingredients for human resource development. At the same time, awareness of the need for improved human resources capacities across South Asia is increasing among NGOs and the donor community. The quality of training is improving. Some governments, such as Afghanistan and Bangladesh, are moving towards establishing training standards and job competencies for individuals working with abused and exploited children.

Implementation is also constrained by insufficient interaction between service providers and between NGOs and government. Addressing sexual abuse and exploitation is by definition a multidisciplinary task, requiring collaboration from the disciplines of health, education, psychology, law, vocational training and social work, among others. No organization can 'do it alone', but with a few exceptions, active participatory linkages among stakeholders in South Asia are inadequate, and little improvement in integration has been seen recently. Competition within government agencies and between NGOs, as well as differing agendas

and access to resources among stakeholders, continue to discourage the collaboration needed for holistic attention to abuse and exploitation.

Yet despite these limitations, numerous quality programmes can be found in South Asia. They deliver adequate services and effectively improve the lives of abused and exploited children. At the same time, almost none of these programmes are replicated, and successful interventions are not taken to scale. One constraint is the difficulty in disseminating skills and experience, given the lack of linkages between stakeholders and a general reluctance to share experiences and ideas. This could be addressed through planned exchanges of expertise between organizations and programmes. The concept of 'good practices' also provides an opportunity to disseminate successful interventions. However, to date the concept of 'good practices' has frequently been used by NGOs for advocacy and fundraising, without providing clear evidence of the impact of these programmes. As yet no requirements exist for designating a programme as a 'good practice', such as an independent evaluation, nor are there established criteria for assessing programme effectiveness in addressing issues such as trafficking, sexual abuse and sexual exploitation.

## **3.0 COUNTRY PROFILE: AFGHANISTAN**

### **3.1 Research Findings**

#### ***3.1.1 Country background***

Afghanistan has suffered several decades of foreign military occupation and fratricidal conflict, resulting in a drastic erosion of protective safety nets for women and children. Female-headed and child-headed households are commonplace, and as of 2004 Afghanistan had the highest proportion of widows and orphans in the world.<sup>89</sup> Armed conflict has resulted in extensive population displacement. The country has approximately 3 million refugees living in neighbouring countries, primarily Iran and Pakistan, and more than 150,000 internally displaced persons, mainly in refugee camps.<sup>90</sup> The country has among the lowest social indicators in the world, ranking 174 out of 178 countries, and the lowest in South Asia.<sup>91</sup> Over one-fourth of primary-school-age children are involved in labour, most of them boys.<sup>92</sup>

Afghan society is conservative and patriarchal, and women and girls are kept close to the household. Girls are frequently the victims of forced marriage and child marriage and there are cases where they have been provided like property to settle disputes. Yet traditional society in a period of reduced social protection also puts boys at risk for abuse and exploitation. Boys are expected to ‘go out in the world’ and assume adult male responsibilities. This can result in extensive irregular migration, entry into labour situations far from their villages and recruitment as child soldiers, all of which can expose them to abuse and exploitation, including trafficking.

#### ***3.1.2 Knowledge base***

The knowledge base on the sexual abuse and exploitation of boys in Afghanistan is scant. No formal research has been conducted on child sexual abuse in the country, although some information has been collected from NGOs working with children and from journalistic reports. There is, throughout the country, a social prohibition of the discussion of sexual issues, and this militates against the conduct of research. At the same time, it is likely (although there is inadequate research to verify) that sexual mores and practices vary in different parts of the country among different tribal, religious and ethnic groups, and this may result in different forms and incidences of the sexual abuse of boys within Afghanistan.

The extensive military conflict in recent years has discouraged field research. At the same time, although little older data are available for comparison, it appears likely that both the prolonged conflict and the resurgence of Taliban ideologies have changed the nature of child sexual abuse in the country. For example, there are journalistic reports (noted below) of boys

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<sup>89</sup> International Organization for Migration, 2008, ‘Trafficking in persons in Afghanistan: Field survey report’.

<sup>90</sup> Ibid.

<sup>91</sup> UNDP and Kabul University, 2007, ‘Afghanistan human development report 2007: Bridging modernity with tradition, rule of law and the search for justice’.

<sup>92</sup> UNICEF, ‘General question and answer sheet 2007’.

<[www.unicef.org/infobycountry/files/Updated\\_2007\\_QandA\\_Afghanistan.pdf](http://www.unicef.org/infobycountry/files/Updated_2007_QandA_Afghanistan.pdf)>.

being abducted by military leaders for dancing, and presumably sexual abuse. At the same time, there are reports that the Taliban have strongly discouraged both the use of boys for dancing and the traditional practice among some tribal groups of keeping boys as ‘mistresses’. Thus, we are greatly dependent on informal sources of information at the present time, and research is needed to fully describe what appears to be rapidly changing situation of the abuse and exploitation of boys in the country.

### 3.1.2 *Sexual abuse of boys*

Little information is available regarding the sexual abuse of boys in Afghanistan, and most of it is informal. It is understood that among some ethnic groups, and to a lesser extent throughout the country, sexual activity between men and boys is not uncommon.<sup>93</sup> While affectionate behaviour between males and females in public is not tolerated, between males it is openly demonstrated.<sup>94</sup> This is in part related to cultural mores that fiercely protect the chastity of girls and women, limiting social interactions between the sexes. The precariousness of family protection due to the armed conflict and the high number of unaccompanied boys in migrant or in-country labour situations suggests that many Afghan boys are highly vulnerable to sexual abuse.

Data on sexual abuse of boys come primarily from the capital, Kabul. Although statistical data are lacking, information from secondary sources indicates that boys are more vulnerable to sexual abuse than girls.<sup>95</sup> It appears to take place primarily in labour situations, in hostels and during private festivities, as well as in public venues such as bus parks and hotels. Little is known or discussed about sexual abuse in the home. The reputation and integrity of the family are of the highest importance, precluding any discussion of domestic sexual abuse.

At the same time, there are precedents for ‘accepted’ sexual abuse of boys, and men’s use of boys for sexual gratification is admitted and discussed.<sup>96</sup> While sex between older men and boys among all classes has been reported, at a more ‘sophisticated’ level is the use of *bacha bereesh* (boys without beards) by wealthy and powerful men. Warlords and military commanders use such boys as status symbols as well as sexual partners. Historically and currently, boys have been kept by wealthy patrons, often as members of the household, and provided with gifts, clothing and other amenities, as girls are similarly kept in other cultures.<sup>97</sup>

Many of these boys enter into monogamous relationships with patrons as a result of their occupations as dancing boys, performing at weddings and parties in female makeup and dress. The institution, sometimes known as *bacha baazi* (boy play), is reported to be reviving in the north of the country. Festivities such as marriages and parties require dancing performances; given that tradition precludes females from performing, the institution of dancing boys has prevailed in South Asia for centuries, in Pakistan and India as well as

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<sup>93</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, ‘Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia’.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> International Organization for Migration, 2008, ‘Trafficking in persons in Afghanistan: Field survey report’.



Afghanistan. Traditionally, boys are recruited from poor households and trained from childhood, reaching the peak of their dance performance and physical desirability at ages 12 to 16, before they reach full pubescence.<sup>98</sup>

Today, the keeping of boys and the performance of dancing boys at *bacha baazi* parties are most prevalent in the north, as the Taliban have strongly discouraged the practice as ‘un-Islamic and immoral’ in the areas under their control. Some boys are sexually abused on a regular basis, some become ‘lovers’ of powerful men and some become exploited in prostitution during certain periods of their lives for survival. Some ‘kept’ boys receive monetary compensation, while others receive only food, clothing and shelter. In some cases their patrons care for them after they reach puberty, providing them with jobs or even marrying them to female family members. The majority enter typical working class occupations after puberty.<sup>99</sup>

While the institution of *bacha baazi* has received much media attention, it should be noted that the number of boys sexually abused through this traditional activity is likely small in proportion to the more commonplace sexual abuse of ‘ordinary’ boys by ‘ordinary’ men. Despite legal and religious censure of homosexual behaviour, research indicates that man-boy sexual relationships are considered neither exceptional nor criminal in the traditional or modern cultures of Afghanistan and nearby countries.<sup>100</sup>

### **3.1.3 Sexual exploitation in pornography**

No data are available on the prevalence of child exploitation in pornography in Afghanistan. Informal reports indicate that pornographic films brought from Pakistan are available in urban centres such as Kabul and Kandahar.<sup>101</sup> There are reports of pornographic films being available to drivers and travellers at rest stops along transportation routes<sup>102</sup> and at some hotels and private video parlours in towns and cities.<sup>103</sup> There is no evidence of Afghan children, male or female, being used in the production of pornographic materials.

### **3.1.4 Other forms of sexual exploitation**

#### **3.1.4.1 Prostitution**

Research on exploitation in prostitution of boys and girls is lacking. Denial about prostitution is prevalent in Afghan society. The social cost for victims, including ostracism, abuse and murder, prevents victims (both children and adults) from reporting the situation, whether it is

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<sup>98</sup> Lahiri, A., 2008, ‘In Afghanistan’ (report prepared April 2008 by Agniva Lahiri on behalf of PLUS Kolkata for MTV Europe).

<sup>99</sup> Ibid.

<sup>100</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, ‘Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia’.

<sup>101</sup> Phone sex and porn abounds in Afghanistan. <[www.soulcast.com/post/show/36408/Phone-Sex-&-Porn-abounds-in-Afghanistan](http://www.soulcast.com/post/show/36408/Phone-Sex-&-Porn-abounds-in-Afghanistan)>

<sup>102</sup> International Organization for Migration, 2003, ‘Trafficking in persons: An analysis of Afghanistan’.

<sup>103</sup> Save the Children Sweden, South and Central Asia Region, 2007, ‘Mapping Save the Children’s response to violence against children in South Asia’.

forced or voluntary. The prostitution of girls and women is not clearly admitted, and in law and discourse it is conflated with running away, kidnapping or adultery (*zina*<sup>104</sup>).<sup>105</sup> As laws criminalize all sexual acts outside marriage, whether or not there have been consensual relations, sexual abuse or sexual exploitation, official sources provide no separate statistics on prostitution. Likewise boys do not admit prostitution, although man-boy sexual relationships involving the exchange of money or other benefits are not uncommon.<sup>106</sup>

Numerous boys are migrants or refugees outside the country, and they must also be considered. Reports indicate that boy refugees living in camps in Pakistan are at risk of entering prostitution.<sup>107</sup> It is likely that many boys, irregularly migrating or smuggled to Iran, Pakistan, the Gulf states or Central Asia, end up in labour situations in which they also conduct casual prostitution to supplement their incomes. After leaving that employment, they may engage in prostitution as a profession.

In Afghanistan as elsewhere, the line between child sexual abuse and sexual exploitation in prostitution is not always clear. For example ‘sexual abuse’ of a child by a teacher in the school or an employer in the workplace may change to ‘sexual exploitation’, or prostitution, if the teacher or the employer receive benefits from providing the child for sex to others, or if the child himself or herself seeks to provide sexual favours for gratuities. This transition is not black and white, and many situations, particularly for boys, do not clearly fall under either term. For example, a boy in a labour situation may be sexually abused by workers and employers, and he may or may not receive gratuities for the abuse. Many may be forced by poverty and other factors to supplement their small incomes by seeking clients who will pay for their sexual services. Thus, considering the high prevalence of sexual abuse of boys, it is likely that there is also a concerning prevalence of child prostitution.

#### *3.1.4.2 Exploitation in travel and tourism*

There are no reports of sexual exploitation of adults or children in tourism in Afghanistan.

#### *3.1.4.3 Trafficking for sexual exploitation*

For Afghanistan, the extent and modalities of trafficking are difficult to assess, due to conceptual confusion between trafficking, smuggling, kidnapping and irregular labour migration.<sup>108</sup> The extent of trafficking as defined in the Palermo Protocol<sup>109</sup> is difficult to

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<sup>104</sup> Article 427 of the Afghan Penal Code makes sexual intercourse outside the marriage, *zina* or adultery punishable by “long term” imprisonment.

<sup>105</sup> International Organization for Migration, 2003, ‘Trafficking in persons: An analysis of Afghanistan’.

<sup>106</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, ‘Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia’.

<sup>107</sup> ‘Watchlist for children in armed conflict’, 2001, Afghanistan, <[www.watchlist.org/reports/pdf/afghanistan.report.pdf](http://www.watchlist.org/reports/pdf/afghanistan.report.pdf)>.

<sup>108</sup> UNICEF Afghanistan, 2008, ‘A discussion paper on child trafficking in Afghanistan’ (internal document).

<sup>109</sup> (a) ‘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,

unravel from cases of children sent by parents (assisted by brokers and often through smuggling) into labour situations, some of which may be abusive, but in which there was no purposeful exploitation.

While there is sufficient evidence of boys being trafficked into forced agricultural labour, domestic servitude and military service,<sup>110</sup> there is no clear information on them being trafficked into exploitation through prostitution, either within or outside the country. The scope of trafficking of boys into prostitution is difficult to gauge, given the denial of prostitution in the country, victims' fear of reporting that they have engaged in prostitution, and the focus of research on the trafficking of women and girls for prostitution. There are reports of boys being abducted for domestic and presumably sexual servitude, as well as for sexual abuse by armed groups.<sup>111</sup>

It is likely that few boys are trafficked expressly for the purpose of prostitution, whether inside the country or outside. However, there is no question that boys are frequently placed in unsafe and irregular migration situations, in which they are highly vulnerable.<sup>112</sup> Boys' entry into prostitution is likely incidental to having migrated or having been trafficked to a vulnerable labour situation, from which they are coerced into prostitution. The only reports available of boys being trafficked directly for the purpose of sexual exploitation are informal reports of abductions for entry into the dancing profession or to serve as men's 'mistresses', for which they might be remunerated.<sup>113</sup>

### 3.2 Legislation

Afghanistan has ratified the Convention on the Rights of the Child and the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. It has acceded to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. It has not signed ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, or the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol).

The legislation and practices of Afghanistan in addressing child sexual abuse and exploitation are complex because the country uses several forms of jurisprudence: State law, customary law and Sharia (Islamic) law. *Sharia* is the legal interpretation of the Koran and the Sunna, and it informs both State and customary law. The wide assortment of customary laws find

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forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) 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 subparagraph (a) of this article; (d) 'Child' shall mean any person under eighteen years of age.

<sup>110</sup> International Organization for Migration, 2003, 'Trafficking in persons: An analysis of Afghanistan'.

<sup>111</sup> Ibid.

<sup>112</sup> UNICEF Innocenti Research Centre 2009, 'South Asia in action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region.

<sup>113</sup> Save the Children Sweden, South and Central Asia Region, 2007, 'Mapping Save the Children's response to violence against children in South Asia'.

their source in tribal legal practices, and up to 80 per cent of the population uses customary laws and traditional conflict resolution practices to address legal problems, including for violence against children and rape. In the past, village elders supervised these legal procedures, but they are increasingly coming under the supervision of local tribal military leaders.<sup>114</sup>

All legislation lacks clear definitions of victims, perpetrators and illegal acts. Substantive and procedural issues are diverse and sometimes conflicting, and interpretations of the laws vary widely. Within State law, the Penal Code 1976, Civil Code 1977, Press Law 1965 and Labour Law of Afghanistan 1940 are most applicable to the sexual abuse and exploitation of boys.

Sharia law, and consequently State and customary law, focus greatly on preserving the integrity of marriage, particularly the virginity of girls and the chastity of married women. It is notable that State law, unlike state laws of several other countries of South Asia, does not discriminate against boys as victims of sexual abuse, rape or kidnapping. Although lesser punishments are sometimes provided for crimes against boys, throughout the Afghan Penal Code provisions expressly state that the victim can be either male or female.

### ***3.2.1 Definition of a child***

The legal age of the child varies considerably across the laws of Afghanistan. The Civil Code defines a child's age of majority as 18 years for boys and 16 for girls, while laws against rape and kidnapping in the Penal Code consider both sexes to be children if they are under 18. Sharia law defines majority as 16 years for boys; for girls it is 14 years or the onset of menstruation, whichever is sooner.

According to article 5 of the Afghan Juvenile Code, the age of criminal responsibility is 12 years<sup>115</sup>. Children (persons under the age of 18) are protected from life imprisonment and the death penalty according to article 39(c) of the Code. The Labour Code in Afghanistan states that a child can work in light industries at the age of 15, as a servant at 14 and as a workers' apprentice at 13.<sup>116</sup> This young age of child labour has implications for the sexual abuse of boys, as research throughout South Asia has shown that young children, particularly if separated from their parents, are highly vulnerable in the workplace.<sup>117</sup>

### ***3.2.2 Sexual abuse***

The Penal Code provides penalties for those who rape either boys or girls, with additional penalties for abusing those under age 18 years old.<sup>118</sup> It criminalizes adultery and pederasty as

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<sup>114</sup> Save the Children Sweden-Denmark (C. Slugget), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>115</sup> The Juvenile Code of Afghanistan available at:

[www.asianlii.org/af/legis/.../jlcogn846p2005032313840103a495.rtf](http://www.asianlii.org/af/legis/.../jlcogn846p2005032313840103a495.rtf), accessed on 17 March 2010.

<sup>116</sup> Labour Code of Afghanistan 1940, Article 13(2), available at:

[www.ilo.org/dyn/natlex/docs/MONOGRAPH/78309/83636/F774573068/AFG78309.pdf](http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/78309/83636/F774573068/AFG78309.pdf), accessed on 17 March 2010.

<sup>117</sup> International Labour Organization, 2006, 'Violence against children in places of work'.

<sup>118</sup> Afghanistan Penal Code, Article 429(1).

well as the ‘violation of chastity of another (whether male or female)’. It also considers sexual abuse by a tutor, teacher or servant to be an aggravating condition. Notably, the Penal Code does not distinguish the sex of the perpetrator, so females could also be charged with offence.

Other forms of child sexual abuse are not addressed in Afghan state law. It has no provisions readily applicable to molestation or sexual harassment. Parents and siblings are not identified as possible perpetrators in sexual abuse, although they are not excluded from penalties for rape under the Penal Code. Legislation does not specifically cover other forms of child sexual abuse, including using indecent sexually explicit language towards a child as well as indecent exposure to sexual activities, showing children pornographic material or forcing a child to witness sexual acts. However, presumably some of these crimes could be addressed through a provision in the Penal Code prohibiting a person from “instigating a male or female, not eighteen years old, to delinquency”.<sup>119</sup>

While the Penal Code, Sharia law and customary laws may protect boys from sexual abuse and exploitation, the Penal Code’s prohibition of adultery and pederasty can also expose the abused boy to accusations of perpetrating an ‘unnatural act’. This provision provides an opportunity to criminalize persons engaged in prostitution, extramarital sex and homosexual sex, regardless of consent.

### ***3.2.3 Sexual exploitation in pornography***

Afghan legislation has limited application to exploitation of children through exposure to pornography, and no reference to child pornography/child abusive images. As in other South Asian countries, it is more concerned with preservation of moral integrity than with the impact of pornography on the victim. The primary provision regarding pornography in State law is the Press Law 2002, which criminalizes inciting others “to seek depravity by means of...publication of obscene articles or photos which tend to debase public morals”.<sup>120</sup> Exposing a child to pornography could perhaps be adjudicated through the Penal Code laws on ‘exposing a child to delinquency’, but this has not occurred in practice.

### ***3.2.4 Other forms of sexual exploitation***

#### ***3.2.4.1 Prostitution***

Prostitution is not formally recognized in the Afghan legal system; it is neither defined nor expressly prohibited. The law is focused around the integrity of the institution of marriage; sexual contact outside marriage is prohibited. A person committing prostitution, either male or female, would be penalized under articles 426-428 of the Penal Code, ‘Adultery, Pederasty and Violation of Honour’,<sup>121</sup> with the assumption that the person was married and conducting sexual intercourse out of wedlock. Child prostitution is not clearly defined, and while the Penal Code is clear that sexual intercourse with a minor (anyone under 18, either boy or girl)

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<sup>119</sup> Afghanistan Penal Code, Article 430(1).

<sup>120</sup> Press Law 2002 (No. 81).

<sup>121</sup> Afghanistan Penal Code, Articles 426-428.

is criminal, it is not clear on the legal response to sexual exploitation of children in prostitution, or whether children would be considered criminals or victims.

Procuring a child for prostitution could be addressed through the provision in the Penal Code of ‘Instigation of Delinquency’, which prescribes penalties for an adult who promotes or assists in the act of minors (under 18) being involved in ‘a profession pertaining to delinquency’.<sup>122</sup> A subsequent provision increases the sentence if the perpetrator is a relative, tutor, teacher or servant of the person, or if the act results in the ‘deflowering of a maiden’.<sup>123</sup>

#### *3.2.4.2 Exploitation in travel and tourism*

Afghanistan has neither legislation that directly addresses sexual exploitation of children in travel and tourism, nor does it have extraterritorial agreements with other countries for prosecution of internationals who exploit or abuse Afghan children.

#### *3.2.4.3 Trafficking for sexual exploitation*

In public conception and in law, ‘trafficking’ is not clearly recognized and is often conflated with kidnapping or human smuggling.<sup>124</sup> Trafficking cases are adjudicated under the Penal Code articles on kidnapping of children.<sup>125</sup> The articles on kidnapping, while addressing both girls and boys under 18 years, impose stricter penalties for kidnapping of girls. Additional penalties are imposed if the crime is committed by a person who has influence over, is responsible for raising or is a servant of the victim. Abducting a girl 16 years old or older from her parent’s home for the purpose of marriage is not deemed an act of kidnapping. The kidnapping provisions do not encompass all of the acts inherent in the trafficking process, according to the Palermo Protocol. There are also provisions related to trafficking in the Penal Code, chapter 8, which regulates “adultery, pederasty and violation of honour”.

Afghanistan needs a coherent law to clarify the conceptual confusion in practice and legislation between smuggling, kidnapping and trafficking. The Ministry of Justice has drafted a law provisionally titled Law on Combating Kidnapping and Trafficking in Persons, which would provide an official definition of the crime and establish a legal framework for its adjudication. The law is presently under review by ministries.<sup>126</sup>

### **3.3 Policy**

The Afghanistan National Development Strategy 2008-2013 includes a chapter on social protection that targets two main groups of children: those ‘at risk’ and war survivors. Among others, the population ‘at risk’ includes children living on the street, working in exploitive conditions or in conflict with the law, and victims of violence, abuse and human trafficking. Implementing social protection reform requires building capacity in the Ministry of Labour,

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<sup>122</sup> Afghanistan Penal Code, Article 430(1).

<sup>123</sup> Afghanistan Penal Code, Article 430(2), 427(2).

<sup>124</sup> UNICEF, 2008, ‘A discussion paper on child trafficking in Afghanistan’ (internal document).

<sup>125</sup> Afghanistan Penal Code, Articles 420, 421.

<sup>126</sup> International Organization for Migration, 2008, ‘Trafficking in persons in Afghanistan: Field survey report’.

Social Affairs, Martyrs and Disabled (MoLSAMD) and capacity to train social workers. It also calls for cooperation with NGOs to support extremely vulnerable groups and provide family reintegration options.<sup>127</sup>

The National Plan of Action against Child Trafficking was adopted in 2004. The NPA was formulated with reference to the Convention on the Rights of the Child and covers protection, prevention, recovery and reintegration, cooperation, and partnerships with children and young adults. The prevention section contains broad measures covering education, vocational training and awareness-raising, as well as the development of child protection committees. However, the NPA does not envision the development of a national, integrated, community-based child protection system. The primary weaknesses in the NPA are generalized 'strategic objectives' and unclear descriptions of actions needed to achieve them. Government departments and agencies, international organizations and NGOs are all responsible for implementation of the NPA.

The primary institutions that monitor human rights abuses, including trafficking, are the Afghanistan Independent Human Rights Commission (AIHRC) and the United Nations Mission to Afghanistan. The new Afghan Constitution, adopted on 5 January 2004, provided for the AIHRC. It has reviewed the country's legislation on trafficking and submitted recommendations to the Judicial Commission. These recommendations, among others, informed the development of the NPA against Child Trafficking. The AIHRC is responsible for implementing initiatives under the NPA. Its Children's Rights Unit has identified trafficking as one of the most important concerns facing children in Afghanistan.

The Ministry of Justice, with support from IOM, has drafted a Law on Combating Kidnapping and Trafficking in Persons, currently under review by other ministries. Anti-trafficking offices have been established in the Attorney General's office in all provinces. The Ministry of Interior is a central player in addressing human trafficking. Although gaps in legislation prevent the direct prosecution of trafficking, the Ministry of Interior undertakes anti-trafficking efforts under laws related to kidnapping and sex crimes.

The Afghan National Police is designated responsible for detection, investigation and prosecution of trafficking cases as well as identification of victims. Its Criminal Investigation Department has created a Counter Trafficking Unit and provided officers, trained by IOM, dedicated to investigating trafficking cases. The unit has gathered all available statistics on human trafficking cases for the year ending March 2008. The Criminal Investigation Department also contains the Sex and Behaviour-Related Crimes Unit, which investigates trafficking for prostitution. However, as prostitution is poorly defined in the Afghan Penal Code, this unit has primarily focused on arresting the 'procurers' of sex acts.

A National Strategy for Children at Risk was developed in 2006 under the leadership of the MoLSAMD. The strategy encompasses a broader scope of child protection than the trafficking NPA, covering children with disabilities, children living on the street, children in conflict with the law, child soldiers and kidnapped and trafficked children. The strategy notes

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<sup>127</sup> Islamic Republic of Afghanistan, 2007, 'Afghanistan national development strategy 2008-2013'.

the high levels of stress and violence within and between families and erosion of family safety nets, along with limitations of government and NGO coordination in addressing children at risk and the increasing number of children placed in orphanages.<sup>128</sup>

The document provides for universal support services, targeted services for at-risk groups, remedial services to address the impact of abuse and the transformation of children's institutions, with an emphasis on promoting community-based care and protection services. The strategy is intended to develop a national child protection system over its four-year span. The system is to include a Child Protection Secretariat to oversee policies, standards of care and quality of care services; a community-based Child and Family Support Services mechanism; and community-based Day Centre programmes for at-risk children.

### **3.4 Programme Responses**

#### **3.4.1 *Children's participation***

With UNICEF support, child rights organizations in Afghanistan have consulted children throughout the country and developed the Children's Manifesto for Afghanistan, with an accompanying Framework for Action. The key issues for action include early marriage, child trafficking, hazardous labour and vocational training for children of the street. In 2003, UNICEF supported Save the Children Sweden-Norway to conduct children's consultations in 11 provincial divisions of Afghanistan under a project titled 'We are the Future of Afghanistan'. More than 800 children discussed their concerns and identified significant issues affecting their lives.

#### **3.4.2 *Monitoring and data collection***

To address the need for monitoring abuse and trafficking cases, the National Strategy for Children at Risk provides for the development of provincial Child Protection Action Networks (CPANs). These networks of government and non-governmental organizations collaborate to monitor the protection of Afghan children and facilitate the referral of abused children to services. The activity is supported by UNICEF, Save the Children Alliance, International Rescue Committee and other agencies. In 2007, UNICEF initiated 'model CPANs' in 11 pilot provinces under the auspices of the MoLSAMD. In 2008, the MoLSAMD requested UNICEF to expand the model to 18 provinces. Provincial CPANs provide monthly reports on child protection violations, including child sexual abuse. These reports, to be disaggregated by age and gender, will allow an analysis of the trends in sexual abuse and exploitation throughout the country.

UNICEF supports child rights monitoring in the areas bordering Pakistan and Iran. Questionnaires for children and community members collect information about many aspects of child protection, including sexual abuse and trafficking. The monitoring started in early 2008, and data are forthcoming. In addition, UNICEF has supported ActionAid to undertake child protection assessments at two major border crossings on the Iranian and Pakistan

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<sup>128</sup> Afghanistan Ministry of Labour, Social Affairs, Martyrs and Disabled, 2004, 'National strategy for children at risk'.



borders. Data collection on the Pakistan border was completed in June 2008, and preliminary findings suggest that working/separated children face significant risks of sexual abuse in border areas.

A Male Sexual Health Working Group has been formed to assist the National AIDS Control Programme of the Ministry of Public Health. Members include persons from the AIDS Control Programme, World Health Organization, UNICEF, Save the Children Norway, ActionAid and the Naz Foundation, among others. The Working Group aims to guide development of strategies, policies and guideline documents for the establishment and quality control of male sexual health care in Afghanistan. Part of its agenda is to assess male sexual health in Afghanistan. Towards that end, a joint study is being prepared by the National AIDS Control Programme and UNICEF on males having sex with males aimed at preventing HIV infection among the most-at-risk groups in Afghanistan. Investigation of the sexual abuse of boys has been incorporated into the conceptual framework of the study.

### ***3.4.3 Legislative changes***

UNICEF and IOM support advocacy targeting parliamentarians in order to revise Afghan legislation on the rights of child victims of sexual abuse. An advocacy group called Civil Society against Sexual Abuse of Children in Afghanistan, which includes parliamentarians, has recently submitted recommendations to the Ministry of Education aimed at preventing sexual abuse of boys and girls in schools and communities.

### ***3.4.4 Prevention through advocacy and awareness-raising***

In collaboration with the Government and NGO partners, IOM has conducted information campaigns through the broadcast media and at the community level, using schools as a medium to raise awareness about trafficking. Teachers in border areas who received training-of-trainers from IOM have since trained over 10,000 teachers and have developed student clubs for peer awareness-raising.

In 2007, the MoLSAMD conducted an awareness campaign with UNICEF assistance to educate the public on the dangers of trafficking and on resources for assistance. UNICEF recently launched a programme in the northern provinces, where most of the child trafficking occurs, aiming to identify the specific needs of children, assist communities in developing projects and services for children, and educate families on trafficking and related issues.

### ***3.4.5 Prevention through outreach to vulnerable boys***

To promote community involvement in protecting children from abuse and exploitation, Save the Children Alliance in Afghanistan has developed a child protection monitoring tool. Used by children, community members and field workers, the tool records child protection incidents and issues and involves children in identifying and planning protection actions.<sup>129</sup>

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<sup>129</sup> Save the Children, 2004, 'Child sexual abuse in South Asia: A discussion paper'. (Regional review submitted to the UN Study on Violence against Children.)

UNICEF supports provincial CPANs, the MoLSAMD and other partners to develop and implement community-based prevention programmes, especially targeting at-risk groups such as children who are living on the street and/or out of school. The initiative is intended to link community-based programmes for child victims of violence, including war victims, with youth interventions such as youth information and contact centres and provincial CPANs. These linkages strengthen monitoring at the community level and improve implementation of prevention and rehabilitation programmes.

In 2008, a consultation of NGOs in Afghanistan provided a series of recommendations to improve social protection of women and children. Included were more interventions to address children working and living on the street and the creation of community-based approaches to strengthen family safety nets.<sup>130</sup> The NGO Afghan Street Working Children and New Approach (Aschiana) provides outreach to boys at risk, primarily those of the street, through its drop-in centres and mobile outreach services in Kabul. Aschiana supports children's groups in Kabul and intercedes at the community level with parents, community leaders, employers, police and government officials.

#### ***3.4.6 Addressing exploitation in pornography***

Concerns have been expressed regarding the availability of pornography, but there are no known interventions to address the use of pornography or prosecute its promotion in hotels or video parlours. There have been no focused activities to assess the use of children in the production of pornography.

#### ***3.4.7 Addressing exploitation in travel and tourism***

As of the time this report was being prepared, Afghanistan had no programme responses that directly address sexual exploitation of children in travel and tourism.

#### ***3.4.8 Responses to sexual abuse and exploitation***

##### ***3.4.8.1 Children's reporting of abuse***

Limited by cultural constraints and lack of reporting mechanisms, there are few reported cases of child abuse in Afghanistan. No child helplines or equivalent telephone systems for reporting abuse and seeking help have been established. Some reports are made to outreach workers for children on the street in Kabul at NGOs such as Aschiana, as well as through the child protection monitoring tool. However, services to respond to reported abuse cases are lacking.

##### ***3.4.8.2 Safe shelter and crisis response***

In Afghanistan as in many other countries of South Asia, the mechanisms of protective response to abuse and exploitation, including safe shelter, rehabilitation, referral and reintegration services, are scarce and primarily limited to urban areas. Shelters designated for

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<sup>130</sup> Agency Coordinating Body for Afghan Relief, 2008, 'NGO voices on social protection'.

trafficked or abused children are lacking, and such children are usually placed in juvenile centres or orphanages. As of the publication date of this report (2010), there are four women's shelters nationwide to protect female victims of abuse, including victims of trafficking, but they have limited capacity and funding. With government support, IOM is establishing a shelter for trafficking victims, intended for women and girls. Short-stay transit shelters are necessary, but debate is under way about whether the establishment of long-term shelters in urban areas would benefit children in the long run. Some suggest the emphasis would be better placed on building community capacity to provide shelter for child victims from rural areas.<sup>131</sup>

Drop-in and referral services for children are available in Kabul but are scarce in rural areas. Aschiana provides drop-in services, education and vocational training, primarily for boys living on the street, in several day shelters in Kabul. Aschiana also provides formal education to several thousand working children in the city. IOM has developed a referral network among NGOs, government and UN agencies to provide clothing, food, psychological and medical support, and repatriation assistance to victims of trafficking.

The government currently lacks resources and technical skills to provide comprehensive rehabilitative care, and NGOs provide the bulk of assistance to victims. One such NGO, the Social Voluntary Foundation, was established in 2001 to educate boys and girls. It now operates a clinic that provides counselling to child victims of war, including those who have been sexually abused. The organization has established child rights committees, comprised of children, teachers and community members that address abuses of child rights in Kabul, particularly for children on the street. The organization conducts home visits and has organized parenting groups to discuss child protection issues. However, due to the cultural importance of family dignity and honour, intercession with families for child sexual abuse cases has not yet been conducted.

To improve the quality of child protection services, including those for victims of sexual abuse, a regional social work coaching system has been introduced by UNICEF in 11 provinces. Assessment tools for families and child victims have been developed, including those for reporting specifically on child sexual abuse cases. To build social work capacity in the country, UNICEF is collaborating with the National Skills Development Programme of the MoLSAMD to establish basic competencies for social work practice, to be linked with a licensing and registration programme.

Afghanistan has numerous reintegration projects, supported by government and international donors, primarily targeted at child victims of war or children repatriated from migration or exile. With the support of IOM and others, in 2007 the Government assisted 400 child victims of trafficking, primarily boys, who were repatriated from Saudi Arabia, Oman, Pakistan and Zimbabwe. The initiative facilitated family reunification and provided children with medical care, education services and shelter in juvenile centres or orphanages.<sup>132</sup>

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<sup>131</sup> UNICEF Afghanistan, 2008, 'A discussion paper on child trafficking in Afghanistan' (internal document).

<sup>132</sup> US State Department, 2007, 'Trafficking in persons report 2007'.

Reintegration programmes generally focus on providing vocational skills and basic literacy. Programmes take place in orphanages, juvenile shelters, refugee camps and urban environments. The effectiveness of these programmes has not been assessed. It is unclear whether the vocational training is appropriate for children returning to impoverished rural environments. Life skills training programmes to help the children cope socially and emotionally remain to be developed.

Family reunification efforts are *ad hoc* and there is no follow up, with unfortunate consequences such as re-trafficking of some children. Also lacking is case management of children for reintegration, including family/community assessments of needs, suitability and protection resources. National standards and guidelines for reintegration practice remain to be developed. Conceptual clarity on reintegration issues and a collaborative strategy to address the reintegration of children are needed for the Government, NGOs and the donor community.

#### 3.4.8.3 Psychosocial care

Few resources for counselling and therapy for child victims are available in Afghanistan. Direct interventions for psychological problems resulting from sexual abuse, particularly intercession in the family, are difficult because of people's reluctance to discuss such sensitive issues. Some activities to provide psychological support to children traumatized from the civil conflict are being conducted.

UNICEF has developed a training manual on response to psychosocial distress caused by violence against children, targeted at NGOs, health workers, police and teachers. Social Volunteers Foundation (SVF) in Kabul provides a trained psychologist to work with parents and children, although primarily related to topics other than abuse. SVF and other organizations that work with abused children are aware of the impacts of sexual abuse, but many workers feel that direct client-centred therapeutic methodologies may be inappropriate for Afghan children and parents, given the sensitivity of the subject.<sup>133</sup> Caregivers rely on play, recreation, social activities and group discussions to allow the children, primarily boys living and working on the street, to express their feelings and facilitate their healing.

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<sup>133</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

## 4.0 COUNTRY PROFILE: BANGLADESH

### 4.1 Research Findings

#### 4.1.1 Country background

The geographical features of Bangladesh and its civil and governmental challenges have had a strong impact on the well-being of children. Its 142 million<sup>134</sup> people live in low-lying areas adjoining the Bay of Bengal, an area prone to frequent cyclones and floods, which displace thousands of people every year. In 2004, it was estimated that about 42 per cent of the population comprised persons under the age of 18.<sup>135</sup> Government challenges include inefficient State-owned enterprises, inadequate power supplies, high levels of corruption and slow implementation of economic reforms.<sup>136</sup> According to some calculations, 36 per cent of the population live below the poverty line.<sup>137</sup>

Families struggle to meet basic needs has hampered the protection of children. The agriculture sector cannot absorb the rapidly growing labour force, and both parents/primary caregivers and children seek work in the cities. Although still predominantly rural, the country has the highest urban growth rate in South Asia (5.6 per cent). The urban population nearly doubled between 1980 and 1995, from 11 per cent to 18 per cent.<sup>138</sup> The country depends heavily on remittances from migrant workers. As in Nepal and Sri Lanka, children's protective safety nets are affected by the absence of one or more caregivers who are working abroad, particularly in India, Malaysia and the Gulf states.<sup>139</sup>

Rural-to-urban migration is a key response to poverty, and this directly impacts children, particularly boys, who are more likely to migrate for labour without the accompaniment of family or friends. More than one-third of boys aged 11 to 16 are not in school<sup>140</sup>, and 38 per cent of them are in the labour force, primarily in the informal sector. As of 2001, half of the boys and girls working in urban areas were rural migrants.<sup>141</sup> The vulnerability of children separated from their families is worsened by their lack of legal identity, for less than 10 per cent of Bangladeshi children are registered at birth.<sup>142</sup>

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<sup>134</sup> Bangladesh Bureau of Statistics, 'Statistical Pocket Book 2008', January 2009, available at: <[www.bbs.gov.bd/dataindex/pby/pk\\_book\\_08.pdf](http://www.bbs.gov.bd/dataindex/pby/pk_book_08.pdf)>, accessed on 17 March 2010.

<sup>135</sup> UNICEF Regional Office for South Asia, 2006, 'South Asia booklet on child-relevant socioeconomic indicators', available at: < [www.reliefweb.int/rw/lib.nsf/db900sid/HMYT-6Q3HYE/\\$file/unicef-southasia-17may.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/HMYT-6Q3HYE/$file/unicef-southasia-17may.pdf?openelement)>, accessed on 17 March 2010.

<sup>136</sup> U.S. Central Intelligence Agency, 2004, 'The world factbook: Bangladesh 2004'.

<sup>137</sup> UNICEF Regional Office for South Asia, 2006, 'South Asia booklet on child-relevant socioeconomic indicators', available at: [http://www.reliefweb.int/rw/lib.nsf/db900sid/HMYT-6Q3HYE/\\$file/unicef-southasia-17may.pdf?openelement](http://www.reliefweb.int/rw/lib.nsf/db900sid/HMYT-6Q3HYE/$file/unicef-southasia-17may.pdf?openelement), accessed on 17 March 2010.

<sup>138</sup> Asfar, R., 2000, 'Rural-urban migration in Bangladesh: Causes, consequences and challenges'.

<sup>139</sup> Heissler, K., 2001, 'Background paper on good practices and priorities to combat sexual abuse and exploitation of children in Bangladesh'.

<sup>140</sup> Bangladesh Bureau of Statistics, 1997, 'Summary report of the household expenditure survey 1995-96'.

<sup>141</sup> ICCDRB and Centre for Health and Population Research, 2001, 'Health and demographic surveillance system', in Matlab: Registration of health and demographic events 1999, vol. 32.

<sup>142</sup> Bangladesh National Women Lawyers Association, 2001, 'Bulletin on birth registration'.

Poverty, absence of primary caregivers and extensive rural-to-urban migration result in two groups of boys who are highly vulnerable to sexual abuse and exploitation: working children separated from their families and children living on the street. While Bangladesh has proportionately fewer working children than other countries in South Asia, including Pakistan and Nepal, it likely has the highest proportion of children living on the street. According to the Bangladesh Institute of Development Studies, approximately 380,000 children live on the street in Bangladesh, the majority of them boys.<sup>143</sup> This number is rapidly growing and is expected to double by 2020.<sup>144</sup>

#### **4.1.2 Knowledge base**

The knowledge base on the sexual abuse and exploitation of boys in Bangladesh is relatively comprehensive for urban areas, including boy rural-to-urban migrants, and scant for the rural areas of the country, including peripheral ethnicities and refugee populations like the Burmese Rohingya. Several studies (see below) have focused on street migration and boy prostitution in urban areas, primarily Dhaka, and a number of case studies of the non-commercial sexual abuse of boys and girls have been collected, also primarily from urban areas. All have been conducted using reliable methodologies. Although the majority of studies have been conducted three or more years ago, it is not considered that the situation has changed much to date, with the possible exception of the numbers of children involved. Bangladesh has not suffered from serious armed conflict or social disruption in recent years. However, it is likely that the overall number of rural-to-urban migrants has increased, including boys who enter the street and/or child labour. As well, it is likely that the number of primary caregivers from rural areas who migrate as remittance workers to the Gulf states and elsewhere has also increased, damaging the ‘safety nets’ of more children, and perhaps resulting in additional cases of sexual abuse and running away of boys. At present, the knowledge base regarding children in rural areas, including minority and refugee populations, needs considerable expansion.

#### **4.1.3 Sexual abuse of boys**

Bangladesh has adequate, if not comprehensive, qualitative data on child sexual abuse, covering both boys and girls. But quantitative data, particularly for rural areas, are scarce, and most information comes from newspaper articles and police reports. Though focused on girls, research indicates that boys may comprise up to 45 per cent of sexual abuse cases.<sup>145</sup> Some studies have addressed the sexual abuse of children as a whole,<sup>146</sup> while others have focused on working children and children living on the street, exploring the linkages between the sexual abuse of vulnerable boys and their resulting sexual exploitation.<sup>147</sup> All studies show a

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<sup>143</sup> Bangladesh Institute of Development Studies, 2004, ‘Street children in Bangladesh: A socio economic analysis’.

<sup>144</sup> Ibid.

<sup>145</sup> Heiberg, T., 2001, ‘Commodities in stigma and shame: An international overview of Save the Children’s work against child sexual abuse and exploitation’.

<sup>146</sup> For example, Breaking the Silence Group, 1997, ‘Non-commercial sexual abuse of children in Bangladesh: A case study based report’; and Breaking the Silence Group, 2003, ‘Learning from experience: Case studies of non-commercial sexual abuse of children in Bangladesh’.

<sup>147</sup> For example, Bangladesh Institute of Development Studies, 2004, ‘Street children in Bangladesh: A socio economic analysis’; and ECPAT International and INCIDIN Bangladesh, 2006, ‘The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh’.

concerning level of child sexual abuse in the domestic sphere, schools and institutions. This often results in exposure to further abuse in the workplace and on the street.

The research has clarified that boys often occupy successive ‘tiers of vulnerability’: first, vulnerability to sexual abuse in the domestic sphere, which can result in boys leaving home and entering a second tier of vulnerability, the unprotected situations of street living and unaccompanied child labour. This in turn leaves them vulnerable to coercion into prostitution, a third and more extreme tier of vulnerability exposing them to multiple levels of sexual and economic exploitation.

Studies indicate that children aged 10 to 14 years are the most vulnerable to sexual abuse in the family and community.<sup>148</sup> In most cases, abusers of boys are adults they know, such as cousins, brothers, uncles and family friends, as well as teachers and house tutors. Most perpetrators are male and middle-aged, primarily between the ages of 25 and 40, while some are from ages 17 to 25.<sup>149</sup> Young boys are abused by older boys and women as well.

The prevalent belief among parents that relatives and friends are ‘safe’ provides impunity to abusers in the domestic sphere. Sexual abuse prevails at the domestic and community levels in Bangladesh primarily because perpetrators can abuse children, both boys and girls, with multiple kinds of impunity, which arise from socially accepted forms of abuse, social restrictions on reporting abuse, child-raising practices and legal inadequacy, among other factors.

As in some other countries in South Asia, sexual relationships between boys and between boys and men are neither uncommon nor socially stigmatized.<sup>150</sup> In the South Asian context, same-sex practices among boys do not necessarily imply a permanent sexual identity as ‘homosexual’; for many it is casual sexual experimentation during youth, leading to eventual heterosexual marriage and family life.<sup>151</sup> But this cultural acceptance of youthful sexual experimentation can screen sexually coercive practices by adult males, allowing them to take advantage of young boys with relative impunity. In addition is the relative tolerance for rape in Bangladesh, particularly in rural areas.

Although the cultural imperatives of family honour and integrity are not as pronounced in Bangladesh as they are in more conservative Afghanistan and Pakistan, they are sufficient to be the primary barrier against reporting sexual abuse that occurs in the family or community. Sexually abused children naturally are reluctant to report abuse to their parents, from guilt, shame, expectation of disbelief or fear of reprisal. This reluctance is aggravated when the abuser is a person known to the family. Often, the child may report abuse to the mother, but the mother, fearing problems within the family, keeps the incident to herself. For this reason,

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<sup>148</sup> Breaking the Silence Group, 1997, ‘Non-commercial sexual abuse of children in Bangladesh: A case study based report’.

<sup>149</sup> Breaking the Silence Group, 2003, ‘Learning from experience: Case studies of non-commercial sexual abuse of children in Bangladesh’.

<sup>150</sup> Save the Children Sweden-Denmark (C. Slugget), 2003, ‘Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia’.

<sup>151</sup> UNICEF Bangladesh (Kabir, R.), 2002, ‘Adolescent boys in Bangladesh: Assessment and analysis of the situation of adolescent boys in Bangladesh’.

some organizations working with abused children focus on seeking solutions within the family unit.<sup>152</sup>

The family's reluctance to report abuse provides an effective screen of silence that allows abuse of children with impunity. There is a strong tendency to blame victims rather than accuse perpetrators, and the cultural preference is to cover up the problem rather than risk exposure by seeking justice.<sup>153</sup> Thus, the rights of abused children are subservient to the family's perceived honour and integrity, and the child submits to the will of the family. Families feel powerless when abuse occurs, and with some justification. Stigma can be extreme, sometimes resulting in social exclusion and preventing the marriage of daughters. If the perpetrator is a person with local economic power, such as a businessman, exposure can affect the family's already insecure income. If the perpetrator is a person of influence in the community, such as a local politician, policeman, trafficker or thug, the family may put itself at risk of physical reprisal.

Traditional practices of child-raising, particularly discipline, have an impact on the sexual abuse of children.<sup>154</sup> Parents frequently don't recognize, or admit, the sexual growth of their child and the child's increasing vulnerability. Corporal punishment of children is often routine, and adult power over children is absolute. Children are seldom allowed a 'voice', whether in decision-making or in protesting their harm. They are afraid to report abuse, not only because they think they would not be believed or because they feel ashamed, but because they would be physically punished. This often results in a double coercion of the child victim – coercion into silence by the abuser as well as coercion into silence by the family.<sup>155</sup>

Even if families were willing to risk exposure, many feel that they could not get proper redress through the justice system. In a 1996 survey of corruption, 96 per cent of respondents said they could not get help from police without money or influence, and 89 per cent said that quick and just settlement from the courts was impossible without bribes or influence.<sup>156</sup>

Although research to date is inconclusive, the long-term social impact of abuse on boys may differ considerably from that of girls. Boys are less likely than girls to be labelled as 'spoiled' (*noshto*), and the abuse of boys is less likely to restrict the future marriage of female siblings.<sup>157</sup> While girls marry early, and sexual abuse can destroy their opportunities for good marriage, boys generally marry in their mid to late 20s, long after the abuse has occurred. Research indicates that abused boys in rural areas suffer less from social stigma than boys in urban areas.<sup>158</sup>

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<sup>152</sup> For example, the counselling unit at Dhaka Shishu Hospital, Dhaka.

<sup>153</sup> Heissler, K., op.cit.

<sup>154</sup> Breaking the Silence Group, 1997, 'Non-commercial sexual abuse of children in Bangladesh: A case study based report'.

<sup>155</sup> Subbian, R., 2004, 'Assessment on the psychosocial support to sexually abused children in the partner programmes of Save the Children Sweden-Denmark, Bangladesh'.

<sup>156</sup> The World Bank, 2000, 'Corruption in Bangladesh: Costs and cures'.

<sup>157</sup> Breaking the Silence Group, op.cit.

<sup>158</sup> Ibid.



As elsewhere in the world, certain groups of children are particularly vulnerable. These include children with disabilities, those confined to institutions<sup>159</sup> and those displaced by disaster.<sup>160</sup> In 2001, a study conducted by Save the Children Australia on children growing up in two brothel communities on the outskirts of Dhaka showed a high level of sexual abuse and exploitation of boys as well as girls by clients, police and local gang members.<sup>161</sup>

Among the most vulnerable and largest groups of boys subjected to sexual abuse are those in the workplace and living on the street. Among 43 boys in domestic service, 20 per cent noted sexual abuse, according to a study in Dhaka.<sup>162</sup> Boys in the *bidi* (cigarette) industry, who are generally aged 13 to 14, have reported abuse from employers and fellow workers.<sup>163</sup> In interviews with 88 boys engaged in prostitution about their previous work situations, which included tea shops, hotels and transportation services, 43 per cent said they left because of sexual abuse.<sup>164</sup>

The sexual abuse of children living on the street is well documented in Bangladesh. In a 2006 study of 200 children living on the street, 79 per cent said they had experienced sexual abuse while on the street.<sup>165</sup> Sexual abuse can be perpetrated by a variety of abusers. Children living on the street must often provide sexual favours to police and officials at train and bus stations to prevent harassment or physical abuse or to be allowed a place to sleep. They may have sexual relations with peers in exchange for food, protection or companionship. They are often subject to gang rape. Many children on the street join gangs for protection, friendship and social inclusion, as well as financial support. Gang leaders may assign boys for mugging, selling drugs and alcohol, or organized begging.<sup>166</sup> During conflicts between gangs, rape of the younger boys is often one of the 'prizes' of the victorious gang.<sup>167</sup>

Notably, research in Bangladesh has clarified the linkages between the sexual abuse of boys in the home and community and their subsequent abuse in the workplace and on the street. Researchers have found direct links between abuse in the home and community with separation of boys from their families and their movement into situations in which they are even more vulnerable to sexual abuse.

A number of factors push boys out of their families and into the street. It is usually assumed that poverty, or quest for income, is a primary push factor, in both rural areas and urban slums. For urban children, going to the street is often precipitated by the family's loss of its

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<sup>159</sup> Heissler, K., 2001, 'Background paper on good practices and priorities to combat sexual abuse and exploitation of children in Bangladesh'.

<sup>160</sup> ECPAT International, Plan International, 2004, 'Report on laws and legal procedures concerning the commercial sexual exploitation of children in Bangladesh'.

<sup>161</sup> Uddin, M.F., Sultana, M., and Mahmud, S., 2001, 'Growing up in the Daulotdia and Kandapura brothel communities of Bangladesh'.

<sup>162</sup> Shoishab Bangladesh, 1997, 'A quantitative study of child domestic workers in Dhaka Metropolitan City'.

<sup>163</sup> UNICEF (Blanchet, T.), 2000, 'Child work in the bidi industry'.

<sup>164</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>165</sup> Groupe Developpement, 2006, 'Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh'.

<sup>166</sup> Ibid.

<sup>167</sup> INCIDIN Bangladesh, 2008, personal communication.

home during government slum evictions or destruction of squatter settlements.<sup>168</sup> However, family dysfunction and the erosion of family protection are more common ‘push’ factors. A 2006 study of boys living on the street noted a prevalence of broken family units. The children talked of families broken down due to alcoholism, violence, conflict, abusive step-parents, abandonment, death of a parent, divorce and polygamy. Forty-four per cent of the children said their fathers had taken an additional wife. Of those fathers, 60 per cent had brought the second wife to the house, resulting in conflict with the first wife and alienation of her children. These children were often shifted to relatives who considered them a burden, leading to their neglect and consequent departure from the home.<sup>169</sup>

However, physical and sexual abuse was the reason most cited for separation from the family. In the study, which involved a qualitative investigation of 93 children using participant observation, play activities, in-depth interviews and group discussions, 26 per cent reported experiencing physical violence and 6 per cent reported sexual violence before they left home.<sup>170</sup> In another study of children’s reasons for leaving home and entering street living, boys most often cited physical and sexual oppression from step-parents and parents, followed by the search for work, then poverty.<sup>171</sup>

However (as explained below), escaping violence and abuse in the family did not improve their situations. Separating from the family and entering the workplace or the street increased their exposure to sexual abuse – and this in turn contributed to their entering prostitution, in which sexual abuse was aggravated by commercial exploitation.

#### ***4.1.4 Sexual exploitation in pornography***

No research has been conducted on pornography in Bangladesh and no information is available on its prevalence, its effect on children, or the abuse and exploitation of children in the production of child pornography. There are unsubstantiated reports of children being used in the production of pornographic photos and films, as well as being trafficked to India for such purposes.<sup>172</sup> Young people today have considerable access to the Internet throughout the country, and informal reports indicate that access to pornography among young people is increasing

#### ***4.1.5 Other forms of sexual exploitation***

##### ***4.1.5.1 Prostitution***

As with the other countries in the region, there is no reliable information on the number of children exploited through prostitution in Bangladesh, either male or female. Both male and

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<sup>168</sup> Global Poverty Research Group (Conticini, A. and Hulme, D.), 2006, ‘Escaping violence, seeking freedom: Why children in Bangladesh migrate to the street’.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Groupe Developpement, 2006, ‘Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh’.

<sup>172</sup> ECPAT International, 2006, ‘Global monitoring report on the status of action against commercial sexual exploitation of children: Bangladesh’.

female children in prostitution are hidden, girls primarily in brothels and boys in more informal situations. Many of the children living and working on the street in urban areas may engage in periodic ‘survival sex’, exchanging sexual favours in return for food, shelter, protection and money. Considering the large number of boys separated from their families, it is safe to assume that many boys in Dhaka and other urban areas are victims of sexual exploitation as well as sexual abuse.

Boys living on the street, migrant boys and boys working as child labourers are most at risk of sexual exploitation.<sup>173</sup> Most of them come from poor, single-parent families, both rural and urban, and have little education. In research covering boys fully engaged in prostitution, one-third of the respondents stated that they had lost one or both of their parents.<sup>174</sup> For half of the children, both parents were illiterate. Seventy per cent of those interviewed came from rural areas, half of whom had migrated to the city alone. The remainder came from urban slums, many still living with their parents or other family members.<sup>175</sup> Boys entered prostitution around 11 to 12 years of age and reached the peak of their ‘earning power’ at ages 13 to 14. Few entered this arena after age 16, primarily because their pubescence lowered their appeal to clients.<sup>176</sup>

When asked the reasons for conducting prostitution, 80 per cent said they did it out of economic necessity. Clients were primarily males aged 30 to 50, coming from all occupations. Male clients often do not pay outright for sex but induce the boys with clothing, food and job offers. Female clients were rarely reported, although some boys stated that they sometimes provided sex to widows or abandoned women in the slums in exchange for food and shelter.<sup>177</sup>

Serving male clients did not imply that the boy identified himself as homosexual. As indicated in the 2006 study on sexual exploitation of boys through prostitution, the label ‘males who have sex with males’ is not a sexual identity but a situational identity.<sup>178</sup> For the majority of clients, sex with boys was a matter of convenience and access for the purposes of sexual release. Although earning their living by providing sex to men, two-thirds of the boys stated a preference for women. Those with a preference for men, called *kothis*, clearly stated that enjoyment of sex with males was a factor in their activity. The other boys admitted to shame, fear, repulsion and a feeling of *noshto*, being spoiled.<sup>179</sup> For them, prostitution was an economic survival strategy that was possible due to the ready availability of male clients.

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<sup>173</sup> ECPAT International and INCIDIN Bangladesh, 2006, ‘The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh’.

<sup>174</sup> Association for Community Development, 2008, ‘Assessment of vulnerability of boys: A situation analysis on prostitution of boys’.

<sup>175</sup> INCIDIN Bangladesh and Red Barnet, 1997, ‘Misplaced childhood: A short study on the street child prostitutes in Dhaka City’.

<sup>176</sup> UNICEF Bangladesh (Kabir, R.), 2002, ‘Adolescent boys in Bangladesh: Assessment and analysis of the situation of adolescent boys in Bangladesh’.

<sup>177</sup> Groupe Developpement, 2006, ‘Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh’.

<sup>178</sup> op.cit.

<sup>179</sup> Ibid.

Notably, research in Bangladesh indicates clear linkages between previous sexual abuse in the home, subsequent sexual abuse in street and working situations, and eventual sexual exploitation. In the 1997 study of children on the street engaged in prostitution, 36 per cent of rural migrant boys in prostitution had a previous history of severe sexual abuse at a young age. Three-quarters stated that the abuse comprised rape and anal penetration. Most of the incidents occurred in the home and were perpetrated by male relatives and family friends. Ninety per cent of those respondents stated that the abuse occurred when they were between 7 and 10 years of age.<sup>180</sup> A subsequent study of boys engaged in prostitution confirmed these findings; it found that 68 per cent had a previous history of sexual abuse, most of which occurred between ages 7 and 10 and was perpetrated by male relatives and close friends in the child's home.<sup>181</sup>

The 2006 study of boys in prostitution analysed the linkages between abuse/vulnerability of labour and street situations and entry into prostitution.<sup>182</sup> Following abuse or violence in the home, subsequent migration and isolation from the family protective safety net, boys found themselves in street or working situations in which they were abused. Forty per cent of children living on the street in a recent study reported abuse by parents, neighbours, local thugs and toll collectors; 30 per cent by employers and house masters; and 2 per cent by the police.<sup>183</sup>

The study noted that the boys' transition from street living into prostitution was mediated by three primary actors: clients, pimps and peers. For 88 per cent of the respondents, clients were the first link to prostitution. In more than half the cases, clients would rape them and then pay them. Later the client would return with friends and link them with other clients. One-fourth of the respondents had been duped by clients through false promises of work, and 15 per cent had been forced into sexual exploitation by threat.

For other boys, pimps played a role by introducing boys to clients. The pimp would reinforce his power and profit by offering the boys loans, creating financial dependency, or by creating a climate of fear through stories of police or thug harassment and then establishing himself as the boy's 'protector'. Pimps also initiated boys into prostitution through rape. Peers drew boys into prostitution as well. Peer groups often functioned as pimps, taking advantage of the boys' social and emotional bonding with the group in order to encourage them into prostitution.<sup>184</sup>

For these boys, 'exploitation' is not limited to sexual exploitation by clients. Pimps, thugs (*mastans*), police and minor officials also exploit them economically, forcing them to turn over a quarter to a half of their income. Boys rely on pimps for access to clients and for protection from harassment and arrest by the police and physical abuse by the *mastans*, who

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<sup>180</sup> INCIDIN Bangladesh and Red Barnet, 1997, 'Misplaced childhood: A short study on the street child prostitutes in Dhaka City'.

<sup>181</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>182</sup> Ibid.

<sup>183</sup> Groupe Developpement, 2006, 'Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh'.

<sup>184</sup> ECPAT International and INCIDIN Bangladesh, op.cit.

control the areas where the boys work. At the same time, the pimps extract money from the boys by making them financially dependent through loans and threatening to expose them to their friends and families. The *mastans* often rape the boys, take their money and charge a 'tax' on their income for working within the territory they control.

The study also documents police exploitation of these boys, including rape, harassment and beatings as well as regular extortion of money through threats of sending them to correction centres. As boys rely on bus and train stations for soliciting clients as well as sleeping, officials and guards also extract money and sex from the boys. Among the boys interviewed in the 2006 study, 82 per cent said they were routinely raped without being paid.

On the positive side, boys found some support from local shopkeepers, who often provided credit, protection and a place to keep their belongings as well as 'counselling' on their problems. The boys stated that some of their clients were also 'good exploiters' and gave them psychological support and friendship as well as money.<sup>185</sup>

#### *4.1.5.2 Exploitation in travel and tourism*

There are no reports of sexual exploitation of children in travel and tourism for international travellers in Bangladesh. However, boys exploited as prostitutes have been unofficially reported at Cox's Bazar, an important seaside destination for local tourists. Boys solicit clients on the beaches and in restaurants and small hotels.<sup>186</sup> There have been no studies of exploitation of children through prostitution for international or local tourists in Bangladesh.

#### *4.1.5.3 Trafficking for sexual exploitation*

While research has been conducted on the cross-border trafficking of Bangladeshi women and girls for sexual exploitation,<sup>187</sup> there is almost no information on boys in this area. Boys are trafficked across borders for other purposes, including fishing, and are trafficked internally for domestic service, agricultural labour and other exploitive labour situations.<sup>188</sup> However, there does not appear to be significant trafficking of boys directly for sexual exploitation, either externally or internally.

At the same time, the internal and cross-border migration of Bangladeshi boys is extensive.<sup>189</sup> It can be presumed that external migration poses similar risks of sexual abuse and exploitation for boys as does internal migration and separation from family.

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<sup>185</sup> ECPAT International and INCIDIN Bangladesh, 2006, 'The boys and the bullies: A situational analysis report on prostitution of boys in Bangladesh'.

<sup>186</sup> Haber, D., 2004, Personal communication.

<sup>187</sup> For example, Blanchet, T., 2002, 'Beyond boundaries: A critical look at women labour migration and the trafficking within'.

<sup>188</sup> International Labour Organization, 2002, 'Rapid assessment on trafficking in children for exploitive employment in Bangladesh'.

<sup>189</sup> Global Poverty Research Group (Conticini, A. and Hulme, D.), 2006, 'Escaping violence, seeking freedom: Why children in Bangladesh migrate to the street', Manchester, U.K., GPRG.

Bangladesh has a well-established trafficking and smuggling industry, a result of both historical and geographical conditions. The country shares a 4,146 km border with India, and 30 of its 64 districts lie on the Indian border. Though the borders were first established with the partition of India in 1947, many Bangladeshi and Indian nationals have family and sometimes property in the neighbouring country and routinely travel to and from. Like families, enterprise does not recognize these fairly modern political boundaries, and the countries share a thriving smuggling trade in rice, cloth, livestock and humans, among much else.<sup>190</sup> Border controls are lax, and many people on both sides of the border supplement their incomes through smuggling.

In addition, thousands of Bangladeshis migrate to India to work, including families who take their children with them. Most of them work in lower-tier occupations in large cities like Mumbai. Bangladeshi boys also regard India as a destination with opportunities. Yearly, hundreds of boys are intercepted at the border by police and security forces, and many more successfully migrate out of the country.

Whether boys are migrating in hopes of employment or are trafficked, their lack of protection and support make them highly vulnerable. It can be assumed – though it is not confirmed by research – that some end up in situations of abuse and sexual exploitation. Many boys who had been trafficked to the United Arab Emirates for camel racing had been sexually abused.<sup>191</sup> Many Bangladeshi boys live on the streets in India or work in restaurants, hotels or transportation, all situations known to be conducive to sexual abuse and exploitation. Research is necessary to ascertain the extent to which these boys become victims of sexual abuse and exploitation.

## 4.2 Legislation

Bangladesh has ratified the Convention on the Rights of the Child; the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; ILO Convention 182 on the Worst Forms of Child Labour; and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. It adopted the Stockholm Declaration and Agenda for Action against commercial sexual exploitation of children in 1996 and reaffirmed its commitment in Yokohama in 2001. It has not signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol).

Legislation addressing the sexual abuse and sexual exploitation of children includes the Penal Code 1860; the Children's Act 1974; the Suppression of Violence against Women and Children Act 2000 or *Nari o Shishu Nirjaton Domon Act* (amended in 2003); and the Suppression of Immoral Traffic Act 1933. Given some later amendments, Bangladesh shares with India and Pakistan the British Penal Code of the nineteenth century.

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<sup>190</sup> Association for Community Development, 1999, 'Socio-cultural study of border belt area'.

<sup>191</sup> Paul, D., 2007, 'Children previously involved in camel racing in the United Arab Emirates (UAE): Project review'. It should be noted that this practice has ended, and the children who were exploited as camel jockeys have the possibility to return, *inter alia* through the support by UNICEF and other organizations, more info available at: <[www.unicef.org/infobycountry/bangladesh\\_35935.html](http://www.unicef.org/infobycountry/bangladesh_35935.html)>, accessed at 18 March 2010.

In general, the country's legislation emphasizes protection of girls and women; boys are not adequately protected from many forms of abuse and exploitation. Older adolescent boys are almost entirely excluded from protection in existing legislation. The Penal Code refers only to girls in its sections on procuring a minor, transporting a victim and obtaining a child for the purpose of prostitution. For the crimes of transporting or enticing a child from his/her lawful guardian, the age limit is 14 for boys and 16 for girls. While the Suppression of Violence against Women and Children Act criminalizes many acts against 'women and children', a child is defined as a person under 16 (as of the 2003 amendment), thereby excluding boys and girls between 16 and 18. Similarly, the Children Act defines a child as anyone younger than 16, thus not protecting boys from 16 to 18.

#### **4.2.1 Definition of a child**

Bangladesh law lacks uniformity on the definition of a child. According to the Bangladesh Majority Act 1875, childhood ends at 18.<sup>192</sup> The Suppression of Violence Against Women and Children Act 2000 Section 2(k) and the Children's Act (1974) Part 1 2(f), defines a child as anyone below the age of 16. The Child Marriage Restraint Act 1929 forbids the marriage of boys under 21 and girls under 18.<sup>193</sup> The age of criminal responsibility is not clear in Bangladesh law. The Penal Code 1860 states that a child cannot be held criminally responsible under the age of 9. There is, however, a provision for presumption of innocence for children between 9 and 12 years; criminal responsibility depends on the maturity of the child to understand the consequences of the act.<sup>194</sup>

#### **4.2.2 Sexual abuse**

The Suppression of Violence against Women and Children Act (SVWCA), the primary law addressing rape in Bangladesh, has an explicit provision on Punishment for Rape or Death in Consequence of Rape. However, as the SVWCA defines the legal age of children as 16 and the law applies only to the rape of 'women and children', the rape of boys between 16 and 18 is not an offence. A provision regarding rape in police custody applies only to women, not to children. It is unclear whether women can be charged with perpetration of rape under the SVWCA. While it states 'if a man commits rape...' some subsequent references to the perpetrator refer to a 'person'.<sup>195</sup> Although the Penal Code states that "the pronoun 'he' and its derivatives are used of any person, whether male or female",<sup>196</sup> the SVWCA does not provide a similar clarification. While the General Clauses Act 1897 states "the words importing the masculine gender shall be taken to include females", Section 375 of the Penal Code (referred to in the SVWCA) explicitly identifies a male perpetrator with the words 'a man is said to commit rape...'<sup>197</sup>

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<sup>192</sup> [http://bdlaws.gov.bd/pdf\\_part.php?id=33](http://bdlaws.gov.bd/pdf_part.php?id=33), accessed on 1 October 2009

<sup>193</sup> The Child Marriage Restraint Act 1929, Act No XIX of 1929, Section 3, [http://bdlaws.gov.bd/pdf/149\\_.pdf](http://bdlaws.gov.bd/pdf/149_.pdf), accessed on 1 October 2009

<sup>194</sup> The Penal Code 1869, Chapter IV, Section 82, [http://bdlaws.gov.bd/pdf\\_part.php?id=11](http://bdlaws.gov.bd/pdf_part.php?id=11), accessed on the 1<sup>st</sup> of October 2009

<sup>195</sup> Suppression of Violence against Women and Children (Amendment) Act 2003, Section 9.

<sup>196</sup> Bangladesh Penal Code 1860.

<sup>197</sup> Bangladesh Penal Code 1860, Section 375.

The Children Act (1974) does not directly address rape and provides little more protection to boys than does other legislation. It does not impose penalties on the act of rape, but rather the "exposure of a child to the risk of rape".<sup>198</sup> In addition, the provisions are directed at girls, with the exception of one provision in which employers are culpable for "exposing a child to the risk of seduction, sodomy, prostitution and other immoral conditions". As the age of majority is 16 according to the Children Act, Part 1, Section 2(f), even if this law were enforced it would not protect boys and girls between 16 and 18 years. Like the SVWCA, the Children Act contains no clear indication that women are or are not to be considered perpetrators. Bangladesh law has no reference to incest or sexual abuse conducted by parents or siblings.

The Penal Code Section 375 prescribes punishment for the rape of girls and women, excluding boys. Section 377 of the Bangladesh Penal Code 1860 includes a provision to protect adults against sodomy and oral sex, and could presumably be used to prosecute perpetrators of rape on boys.<sup>199</sup> However, the rape of boys is not generally recognized as such, and under this provision boys are more likely to be treated as criminals themselves for conducting 'unnatural acts'. In the Penal Code, only males are considered perpetrators of rape.

Sexual molestation – non-penetrative sexual abuse of children – is specifically addressed in the SVWCA in Section 10(i), although it excludes boys and girls between 16 and 18. In the criminalized act, defined as 'sexual oppression', the perpetrator "touches the sexual organ or other organ of a woman and child". In the case of molestation, only males are considered perpetrators.

The SVWCA addresses one aspect of sexual harassment ("assaults a woman sexually or makes any indecent gesture"<sup>200</sup>), Section 10 (ii) but it applies only to adult women, and the SVWCA has no mention of verbal harassment. The country's legislation does not address other forms of child sexual abuse, including forced oral sex, indecent exposure of the victim or perpetrator, or forcing a child to witness sexual acts or pornographic material. While children, including boys, could potentially be protected under the Penal Code provision against 'unnatural acts', this provision can also be used to criminalize the sexually exploited child.

#### ***4.2.3 Sexual exploitation in pornography***

The country's legislation regarding pornography, from the Penal Code of 1860, forbids the possession or production of pornography and is primarily concerned with protecting the public from the sale and distribution of materials that may "tend to deprave and corrupt". The legislation does not mention sexual abuse or exploitation of children in pornography. While the Penal Code can protect children from the effects of exposure to pornography through its prohibition against selling pornographic materials to children under 20 it does not protect

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<sup>198</sup> Children's Act 1974.

<sup>199</sup> Bangladesh Penal Code 1860, Section 377.

<sup>200</sup> Suppression of Violence against Women and Children (Amendment) Act 2003.



children from the sexual violence inherent in producing pornography. There are currently no laws to protect children from pornography transmitted through electronic media.

#### **4.2.4 Other forms of sexual exploitation**

##### *4.2.4.1 Prostitution*

Neither the Penal Code, the Children Act nor the SVWCA define prostitution. The Suppression of Immoral Traffic Act 1933 (SITA) section 3(4) defines prostitution as “promiscuous sexual intercourse for hire, whether in money or kind”<sup>201</sup> and does not reflect the breadth of the definition of prostitution in the Optional Protocol. Child prostitution is not defined in any law.

The laws pertaining to exploitation of children through prostitution in Bangladesh provide significantly less protection to boys than to girls. The Penal Code prohibits the procurement of minor girls (under 18) but not of boys. Additional subsections later added discuss the transportation of a girl, but they do not remedy the gender exclusion. Other sections prohibit buying, selling or obtaining possession of a girl under 18 years for the purpose of prostitution. The sections refer only to girls.

The SVWCA criminalizes acts with the intention of engaging a woman or child (boy or girl under the age of 16) in prostitution. This is stated in Section 6 (i). However, the law does not cover boys between 16 and 18 years. Girls above 16 years are regarded as women. SITA, although generally superseded by SVWCA, has advantages in that children are deemed to be below the age of 18 years, rather than 16 years. This is established in SITA Sections 3 (1), 11(a), and 12, however, SITA is more gender discriminatory than SVWCA. A ‘prostitute’ is defined as “any female available for the purpose of prostitution”, according to SITA 3 (5) and a ‘brothel’ is according to SITA Section 3 (5) defined as a place where two or more women engage in prostitution or where a child under 18 is kept for the purposes of prostitution. Thus, SITA effectively denies the existence of boys exploited through prostitution and brothels in which boys conduct prostitution. The sections of SITA on procuring a person are Section 9 (1), importing a person for prostitution Section 10 (1), detaining a person in a brothel in Section 11 (a)(b), and “causing or encouraging or abetting the seduction or prostitution” of a child in Section 12. Section 12 only refers to girls. The only area in which boys are given equal recognition under the law is solicitation. SITA penalizes any person – adult or child, boy or girl – for solicitation in Section 7 (1)(a), (b), thus effectively making boys who are sexually exploited offenders while denying them protection from being victimized.

The Children Act does little to remedy the problems of the Penal Code, SVWCA or SITA. Limiting the age of majority to 16, it protects neither girls nor boys above the age of 16. It imposes penalties on those who cause or encourage the seduction or prostitution of a girl, but it does not address boys. A single exception is in section 44, regarding the exploitation of child employees, which states that anyone who secures a child for menial employment in a factory or other establishment but “exposes the child to the risk of seduction, sodomy,

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<sup>201</sup> Suppression of Immoral Traffic Act 1933.

prostitution or other immoral conditions” is punishable.<sup>202</sup> Although excluding all children between 16 and 18 from protection, this section at least provides protection for boys and girls under 16.

#### *4.2.4.2 Exploitation in travel and tourism*

Bangladesh has no legislation directly addressing sexual exploitation of children in travel and tourism, and the country has no extraterritorial agreements with other countries, except for Thailand to prosecute internationals who abuse Bangladeshi children. The Extradition Act punishes offenders against Bangladeshi children, and applies only for Thailand

#### *4.2.4.3 Trafficking for sexual exploitation*

The SVWCA is the primary law addressing trafficking, although it does not contain a clear and comprehensive definition of the term. The measure prohibits buying, selling, importing, exporting or taking custody of a child for immoral purposes. The law also makes it an offence to kidnap a woman or child. The law addresses “women and children” and the legal age for a child is below 16, accordingly the trafficked boys between the ages of 16 and 18 are not protected. The law places primary emphasis on cross-border trafficking with the term “from abroad”.<sup>203</sup> This follows from Section 5 (i) and 6 (i). The Penal Code, prior to the SVWCA, addressed trafficking primarily through its sections on kidnapping and abduction.

The Penal Code penalizes those who convey a person outside of Bangladesh and those who take or entice males under 14 and girls under 16 from their lawful guardians. Kidnapping of a child under 10 with the intent that the child will be “subject to the lust” of another person, is considered an aggravated offence. Unfortunately for prosecution, the penalty for trafficking in the SVWCA is very severe: death or life imprisonment. Rather than having the deterrent effect intended by the law’s framers, it has made judges reluctant to impose such harshness on perpetrators without proof of the offence beyond reasonable doubt, resulting in very low conviction rates.

In practice, however, these laws are infrequently used when a trafficker is apprehended at the India-Bangladesh border. Studies by two Bangladesh NGOs, Unnayan Bikalper Nitinirdharani Gobeshona (UBINIG) and the Bangladesh National Women Lawyers Association (BNWLA) found that arrested traffickers are usually charged under the Bangladesh Passport Order 1973 with the minor offence of crossing the border without a passport. This offence imposes a minimal fine and allows immediate release from custody.<sup>204</sup>

### **4.3 Policy**

The government has developed the National Plan of Action against the Sexual Abuse and Exploitation of Children including Trafficking 2002-2007 (NPA). The development of the

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<sup>202</sup> Children’s Act 1974.

<sup>203</sup> Suppression of Violence against Women and Children (Amendment) Act 2003.

<sup>204</sup> Bangladesh National Women Lawyers Association, 1996, ‘Movement against flesh trade; UBINIG, 1999, ‘Fact finding missions on trafficking in women and children from Bangladesh to India and Pakistan’.

NPA was facilitated by an advisory Core Group, under the leadership of the Ministry of Women and Children Affairs (MWCA), with UNICEF Bangladesh acting as secretariat. Members included the Department of Social Services, Action against Trafficking and Sexual Exploitation of Children (ATSEC) Bangladesh, BNWLA, Concern Bangladesh, INCIDIN Bangladesh, ILO and Save the Children Alliance. As part of its development, consultations with children and sub-national meetings with local stakeholders were held.

This NPA is notable in South Asia for directly addressing non-commercial sexual abuse as well as sexual exploitation and for its comprehensive presentation of critical issues in protection, prevention, recovery and reintegration. It also has specific sections on perpetrators and on child participation.<sup>205</sup> In its comprehensiveness, the NPA addresses many issues important to boys, including measures to address the risks of migration, abuse by staff working in residential institutions, abuse-reporting mechanisms, creation of ‘safe havens’ for at-risk children and child-friendly law enforcement procedures.

The initial impact of the NPA was primarily limited to non-government stakeholders such as INCIDIN Bangladesh, which initiated ‘safe haven’ night shelters for boys (discussed below), and BNWLA, which sought to strengthen protection mechanisms in its residential care facilities. Government stakeholders, particularly the Department of Social Services under the MWCA and the Ministry of Home Affairs initiated activities as per NPA recommendations later in its timeframe and continuing into 2008 and 2009. These include the development of standards and guidelines, including abuse protection mechanisms, for reintegration practice, by the Department of Social Services with the assistance of UNICEF, and the development of a child-friendly Victim Support Centre operated by law enforcement under the Ministry of Home Affairs, with the assistance of UNDP.

The Bangladesh National Plan of Action for Children 2004-2009 is, by definition, a document of wider scope. The time, national and international expertise, and extensive child participation used to develop the National Plan of Action against the Sexual Abuse and Exploitation of Children were not available for the development of its chapter related to sexual abuse and exploitation, titled Protection from Abuse, Exploitation and Violence.<sup>206</sup> Strategically, the major interventions of the National Plan of Action for Children are general and do not provide sufficient reference to protect boys. The intervention “build social awareness, sensitization of child rights and protection concerns, and changes in attitudes towards children” adds “particularly girls”. The interventions include “prioritize programming for girls who are vulnerable to abuse, exploitation and violence”,<sup>207</sup> thereby excluding boys. However, these deficiencies are remedied by the comprehensiveness of the NPA against sexual abuse and exploitation.

Sectoral policies and programmes include the establishment of an Implementation and Monitoring Committee to coordinate and monitor the NPA. This committee is divided into four sub-committees responsible for implementing the activities designated in the NPA.

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<sup>205</sup> National Plan of Action against the Sexual Abuse and Exploitation of Children including Trafficking 2002-2007.

<sup>206</sup> National Plan of Action for Children Bangladesh 2004-2009.

<sup>207</sup> Ibid.

Members are representatives from the MWCA and the Ministry of Social Welfare, other ministries and departments, and NGOs. The sub-committees divide the activities delineated in the NPA and address them through one-year work plans. However, due to the comprehensiveness of the NPA, with a plethora of defined actions, it has been difficult for the government and its partners to implement many of the activities within the timeframe of the document.

During development of the NPA, a set of parallel and somewhat coordinated government activities was pursued. In 2001, a three-year project called the Coordinated Programme to Combat Child Trafficking was initiated. Monitored by an inter-ministerial committee chaired by the Ministry of Home Affairs, the project was aimed at coordinating the work of government and NGOs on trafficking prevention, rescue, repatriation and reintegration. The committee established anti-trafficking units in 64 districts, with anti-trafficking police cells providing data on trafficking cases and victims. The committee met monthly to review the nation's anti-trafficking efforts. A deputy attorney general was appointed to coordinate and expedite the prosecution of trafficking cases. This brought about an increased number of prosecutions and relatively effective coordination of efforts between government and NGOs in repatriation and rehabilitation.

Based on a review of the programme, the MWCA and government and NGO stakeholders developed the National Anti-Trafficking Strategic Plan of Action in 2006, with the purpose of clarifying the roles of government agencies and NGOs, and coordinating specific actions for prevention, rescue, repatriation, prosecution and reintegration of trafficking victims. The Plan addresses both the continuation of activities from 2005-2006 and the initiation of new activities. The document recommends the establishment of Anti-Trafficking Committees at the central, district, sub-district and village levels.

However, the Plan is primarily focused on trafficking. While addressing some of the root causes and protection considerations for non-commercial sexual abuse, it does not encompass the broad range envisioned in the National Plan of Action against the Sexual Abuse and Exploitation of Children 2002-2007. Thus, many interventions with direct consequences on boys, particularly children on the street and boys in prostitution are not addressed.

At the same time, Bangladesh has created a number of administrative bodies, including the Inter-Ministerial Committee of the Coordinated Programme to Combat Child Trafficking, the NPA Implementation and Monitoring Committee and its sub-committees, a plethora of monitoring, anti-trafficking and 'motivational' committees at the central, district, sub-district and village levels, and several overlapping NGO networks. These bodies tend to duplicate tasks and are time-inefficient for the stakeholders, so consequently they do not appear to effectively fulfil their objectives of addressing sexual abuse and exploitation.

## **4.4 Programme Responses**

### **4.4.1 Children's participation**

The Youth Partnership Project for Child Victims of Commercial Sexual Exploitation in South Asia is a regional anti-trafficking activity involving youth in Bangladesh, India and Nepal. Through the cooperation of the NGOs Aparajeyo in Bangladesh, Sanlaap in India and Maiti Nepal in Nepal, child survivors and young people at risk engage in peer support, community awareness and public advocacy on trafficking, sexual exploitation, gender discrimination and children's rights. The project is coordinated by ECPAT International.

UNICEF Bangladesh has supported a programme called *Kishori Abhijan* (Empowerment of Adolescents), which began its second phase in 2006. Originally targeted at girls, adolescent boys were later included. To date nearly 2,500 boys have received training from peers on child abuse and exploitation, trafficking, gender, reproductive health and other issues critical to adolescents' growth and protection. The programme also develops peer-to-peer networks to enhance young people's self-confidence and encourage them to share their views about issues that affect them.<sup>208</sup>

### **4.4.2 Monitoring and data collection**

The national police established a cell to monitor trafficking cases in 2005. It maintains a database, updated daily with information from each of Bangladesh's 64 district police headquarters, on the rescue or apprehension of trafficked children, arrest of traffickers and prosecution of cases. Data are collected only on trafficking, not on other aspects of sexual violence. The monitoring cell routinely provides comprehensive updates to the ministries of Home Affairs and Foreign Affairs.

From its offices throughout the country, BNWLA investigates reports of sexual violence against children and provides legal aid for victims. It also lobbies at the national level to strengthen laws to protect women and children. The Centre for Women's and Children's Studies in Dhaka monitors newspaper and police reports on missing, kidnapped and trafficked children. It has plans to extend its monitoring to include child sexual abuse and exploitation. The group's information is disaggregated by sex, age and home location of the child victim.

### **4.4.3 Legislative changes**

A number of legal NGOs in Bangladesh advocate with the government to promote changes in legislation. The organizations include BNWLA, Breaking the Silence, the coalition ATSEC Bangladesh and Ain O Salish Kendra, among others. To date their activities have primarily focused on women and girls, addressing rape, acid burning and trafficking of girls and women.

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<sup>208</sup> UNICEF Bangladesh, 2006, 'Child sexual abuse, exploitation and trafficking in Bangladesh'.

#### ***4.4.4 Prevention through advocacy and awareness-raising***

Breaking the Silence addresses the sexual abuse of girls and boys and has been working to raise awareness for more than 10 years. It now covers six districts as well as Dhaka. Working primarily through schools, Breaking the Silence raises awareness about child sexual abuse to principals, teachers and parents, as well as children. The work has been challenging, given the sensitivity of discussing sexuality in Bangladesh. The organization approaches the issue through discussions on children's rights. School activities include building healthy relationships between teachers and children, opening discussions on the problems children face in schools, creating a child-friendly school atmosphere, establishing closer ties between schools and parents, and helping teachers and students identify what schools can do in the event of sexual abuse.

With support from Save the Children Sweden-Denmark, Breaking the Silence operates a counselling bureau, located at a mother and child health and family planning facility in Dhaka. It provides trained counsellors to educate visiting clients, both mothers and children, on the sexual abuse of girls and boys. The group also conducts extensive networking with NGOs and government agencies to develop their awareness and build capacity to address child sexual abuse in both rural and urban settings.

Sexual abuse has also been addressed in schools by the NGO Development Initiative for Social Advancement through a project supported by Save the Children Sweden-Denmark. Operating from 2003 to 2006, the project mobilized students (both girls and boys) and teachers to tackle abuse in school settings. Children's groups were formed to provide a venue in which children could safely express their concerns, and peer educators were trained and mobilized to raise awareness among fellow students. Materials were developed on child sexual abuse, and teachers were trained to identify abuse risks and symptoms among their students. The project also conducted awareness activities among parents and school management committees.

Approximately 15 of the leading NGOs working on child sexual exploitation in Bangladesh are members of the networking coalition ATSEC. The coalition, which has counterpart groups in India and Nepal, conducts awareness and social mobilization programmes at local and national levels, supports research and provides inputs into governmental and donor strategies against sexual exploitation.

INCIDIN Bangladesh is a research and advocacy organization working to combat sexual abuse and sexual exploitation of children. Through its project Safe Night Shelter for Sexually Exploited Street Children, supported by Save the Children Sweden-Denmark, INCIDIN conducts a campaign to prevent boys from being sexually abused and entering prostitution by providing safe night shelter. It also works to empower children living on the street through participation and activism.

INCIDIN advocates for safe night shelter through an alliance with NGOs, government and the private sector to operate houses where children can spend the night. Activities include workshops, media campaigns, dialogues with decision-makers and consultations with

children living on the street. In its advocacy activities INCIDIN works closely with the children's organization Child Brigade, which advocates for the rights and protection of children living on the street in Bangladesh. Urban grass-roots advocacy has led to formation of a committee in central Dhaka to protect the rights of children living on the street. Comprised of ward commissioners, local businesspeople and members of school management committees, the organization has developed a child rights forum of children living on the street. It has also conducted child leadership activities in which young activists organize children of the street, collect information about the violation of their rights, identify key issues for advocacy and sensitize other children on their rights.

Bangladesh Institute of Theatre Arts conducts innovative awareness-raising activities through street theatre. The group brings awareness of trafficking and sexual exploitation of girls and boys to the village level by training and mobilizing local street theatre groups throughout the country. *Nijeki Jano* (Know Yourself) adolescent communication kits have been developed by UNICEF and a consultative group funded by Save the Children. The kits have been distributed in non-formal education settings, in which children discuss sexual abuse, trafficking and sexual health, among other issues.

Peer activities and youth groups have been effective in raising awareness among young people. The NGO Association for Community Development in Rajshahi district mobilizes adolescent boy and girl groups to discuss gender, trafficking, child sexual abuse, reproductive health and other issues. Through its extensive grass-roots links, the organization has also mobilized adult volunteer advocates to reach out to vulnerable children and children engaged in commercial sexual exploitation. The organization has links with the police (who bring abused children for protection to the association's shelter home) and local politicians. It has also established socialization centres where community members can interact with volunteers and discuss issues and solutions to abuse and exploitation.

The Empowerment of Children in Need of Special Protection project, supported by Save the Children Australia, was started in 1998 to address children living on the street, in slums and in brothels and other children at risk of abuse and exploitation. The project strengthens the children's ability to protect themselves by providing life skills training and awareness on reproductive health, children's rights and gender issues. The project has worked to build the capacity of counterpart NGOs in five districts to conduct life skills and awareness activities for vulnerable children, primarily girls, and to create a network to protect boys and girls from sexual abuse and exploitation.

#### ***4.4.5 Prevention through outreach to vulnerable boys***

Drop-in centres are an effective mechanism for providing prevention and support activities for sexually abused and exploited boys, including those living on the street and engaged in prostitution. Drop-in centres can reach children with a variety of services, including crisis response, health care, counselling, non-formal education, life skills training and vocational training.

INCIDIN has established two night shelters for boys in Dhaka city, near the Kumlapur Railway Station where many children congregate. The shelters provide food, a bed and bathing facilities, as well as emergency health services. During the day they operate as drop-in centres, providing psychological support, health care, non-formal education, legal aid and life skills training. This project is unique in South Asia for its focus on reducing child sexual abuse and preventing boys' entry into prostitution by providing safe night shelter and working to empower the boys through participation in shelter activities. Children participate in the shelter's operation and in planning, implementing, monitoring and evaluating the project, including evaluation of staff. Through group meetings, the children establish their own rules for shelter operation and make decisions about shelter maintenance, such as paint colours and repairs.

Outreach workers play a major role in linking the children with the services of the shelters/drop-in centres. They go to the railway platforms and other places where boys living on the street congregate to build rapport with them. When an outreach worker meets a boy who appears to be in trauma from abuse, he refers him to the shelter and informs the counsellor. No boy is obliged to explain his motivation for entering the centre, and INCIDIN does not distinguish between boys being engaged in prostitution, sexually abused or simply living on the street. To avoid abuse of younger boys by older boys, only boys below 14 years are allowed inside the night shelter, although all may use the facility during the day.

Aparajeyo Bangladesh operates drop-in centres, with optional night shelter, for girls and boys of the street in downtown Dhaka. The centres are open, and children can come and go as they please. As well as providing a venue for socializing with each other and finding adult protection, the drop-in centres also provide professional counselling, non-formal education, recreation and medical assistance. A 'savings bank' operated by the children teaches them to manage their finances. The staff conducts case management activities to plan and guide the children's care and social integration. Aparajeyo also trains and mobilizes former children of the street as peer outreach workers. Called child motivators, these children live in hostels and receive a small remuneration. NGO staff and child motivators identify newly arrived children at railway and bus stations and provide them with information and referral to services.

Bandhu Social Welfare Society provides information on HIV and sexually transmitted infections and services for males who have sex with males in urban areas of Bangladesh. The organization addresses both adult males and boys. Services are provided through drop-in centres operated by peers and are directed at both males working in prostitution and the men and boys who engage them. Awareness and training activities teach boys and men strategies to protect themselves from sexual and physical violence, negotiate sexual activity and learn safe sex practices.

#### ***4.4.6 Addressing exploitation in pornography***

Based on the information gathered for this report, there have been no focused activities in Bangladesh to address the exposure of children to pornography or the use of children in the production of child pornography.



#### ***4.4.7 Addressing exploitation in travel and tourism***

Based on available evidence, Bangladesh has no programme activities that directly address sexual exploitation of children in travel and tourism.

#### ***4.4.8 Responses to sexual abuse and exploitation***

##### *4.4.8.1 Children's reporting of abuse*

As elsewhere in South Asia, social and cultural factors significantly constrain children's reporting of abuse, and NGO reporting mechanisms are weak. Breaking the Silence, in its awareness work in schools, receives reports of sexual abuse. If the abuse victim is not severely traumatized, the situation is addressed by the NGO's volunteers and para-counsellors. Critical situations are referred to professional psychologists. However, the organization lacks counsellors and social workers to provide sufficient follow-up with the children and families, and its reporting mechanisms need expansion and strengthening.

BNWLA operates a child helpline with support from Grameen Phone. The organization also provides legal counselling and mediation, arbitration and litigation services and rescues and reintegrates victims of sexual exploitation. Other NGOs, including Ain O Salish Kendra and INCIDIN, also provide legal assistance to child victims of sexual abuse and exploitation.

##### *4.4.8.2 Safe shelter and crisis response*

One-stop crisis centres at the Dhaka Medical College Hospital and the Rajshahi Medical College Hospital provide immediate medical care, counselling, crime reporting and legal advice to victims of sexual and physical violence. The centres engage doctors, counsellors, police and lawyers for comprehensive, rapid response for women and children in crisis. The centres are supported by the Ministry of Women and Children Affairs in cooperation with the BNWLA and the NGO Naripokkho.

BNWLA launched the Integrated Rehabilitation and Resource Centre for Child Victims of Sexual Abuse and Trafficking in 2001 with the support of Save the Children Sweden-Denmark. Focused on both boys and girls, the centre provides 24-hour crisis response for abuse victims and shelter-based rehabilitation activities, including psychosocial counselling, legal aid, survival support, medical assistance and education. It also provides information and training in rehabilitation and reintegration practices to government and NGOs and raises awareness of child sexual abuse in the community.

Most shelters in Bangladesh serve girls and women, and considering the number of sexually abused and exploited boys in Bangladesh, the country does not have a sufficient number of shelters where boys can go for refuge or rehabilitation. At the same time, the night shelter/drop-in facilities operated by INCIDIN and Aparajeyo in Dhaka city could be considered models of good practice for South Asia, with well-trained staff, case management systems and extensive child participation.

#### *4.4.8.3 Psychosocial care*

Bangladesh is developing capacity in psychosocial care and support, although comprehensive training programmes for counsellors remain to be developed. With few exceptions, present courses do not provide adequate clinical training. Psychological care and support for those experiencing sexual abuse are provided largely by NGOs, but the number of sexual abuse victims and survivors with access to these services is small.

Psychological as well as legal and social support is provided to males having sex with males, including boys, by the Bandhu Social Welfare Society. Bandhu provides counselling and peer support activities for men who engage in non-commercial sexual activities as well as those who conduct prostitution. The organization does not provide counselling to boys and refers boy victims of sexual abuse to professionals for counselling and therapeutic support. Peer support activities with boys and men address issues of sexual violence, early sexual abuse within the family, discrimination in the family and community, and social acceptance of males with alternative sexual identities, among others.

At INCIDIN's night shelters/drop-in centres (described previously), psychologists and para-counsellors provide psychological support to boys living on the street. Individual and group activities address the sexual abuse and exploitation that many children face on the street. In addition, outreach workers provide on-site support and counselling in areas where children living on the street congregate. While INCIDIN's staff are well-trained, critical cases are referred to professional psychologists, psychiatrists and physicians.

Breaking the Silence runs a counselling facility at the Radda mother and child health and family planning facility in Dhaka. Trained counsellors are available to support affected children and to educate clients, both mothers and children, who attend the centre. Naripokkho, a women's activist organization, has a centre-based psychosocial team that provides support for victims of sexual abuse, primarily female. The team is comprised of trainee psychologists from the clinical psychology department of the University of Dhaka as well as para-counsellors.

Dhaka Shishu (Children's) Hospital has a team of para-counsellors and psychologists who work on child sexual abuse cases. Counselling and therapy are provided through its child development centre. Families usually do not bring children to the hospital for treatment of abuse; rather the abuse is identified by the team through the child's psychological or physical symptoms, including depression, anxiety or sexualized behaviours. The team then addresses the issue in collaboration with the family, seeking to assist family members to heal the child and resolve the abuse issue within the family unit.

## 5.0 COUNTRY PROFILE: INDIA

### 5.1 Research Findings

#### 5.1.1 Country background

The immense diversity of India, the world's most populous democracy, makes it difficult to generalize about factors that contribute to the sexual abuse and exploitation of children. Moreover, as some of the data from which this section has been prepared are several years old, the findings should be interpreted with caution given that the country is undergoing profound social and economic transition that likely has an impact on the phenomenon of sexual abuse and exploitation of boys. Furthermore, India's many states encompass diverse natural environments, economic resources, ethnicities and customs, as well as varying levels of education, child labour, poverty and government efficiency and integrity. India in essence encompasses many 'countries', each with unique social and economic characteristics that affect the protection and vulnerability of its children.

The differing degrees of child protection and vulnerability in various parts of India shape the forms of child sexual abuse and exploitation for the country as a whole. For example, varying levels of family poverty, among other factors, influence the migration of boys. The percentage of population living below the poverty line in 1999/2000 ranged from 27 per cent in West Bengal to 43 per cent in neighbouring Bihar, and from 4.5 per cent in Goa to 25 per cent in neighbouring Maharashtra.<sup>209</sup> These disparities have led many boys to migrate between states, so many Bihari boys are working and living on the streets in Kolkata, West Bengal,<sup>210</sup> and many *Maharashtran* boys migrate to Goa to work in construction. In the State of Goa and Kerala, a study found that many of these migrating boys end up being sexually exploited through prostitution by travelling sex offenders.<sup>211</sup>

Overall, India shares with the rest of South Asia challenges that contribute to boys' vulnerability to abuse and exploitation: rural to urban migration, lack of employment opportunities, extensive child labour and the prevalence of bonded labour in many parts of the country. While India has proportionately less foreign migration of parents for labour than other countries of South Asia, many families are affected by extensive migration of fathers and other male caregivers from the countryside to the cities in search of employment.

#### 5.1.2 Knowledge base

The knowledge base on the sexual abuse and exploitation of boys in India is not substantial. There have been several studies of street children, boy dance performers and boy prostitutes within the last few years, and though the data are reliable and remain current, they are limited

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<sup>209</sup> National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, 'A report on trafficking in women and children in India 2002-2003'.

<sup>210</sup> Groupe Developpement, 2006, 'Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh'.

<sup>211</sup> Equations and ECPAT International, 2003, 'A situational analysis of child sex tourism in India (Kerala and Goa)'.

to a few areas of the vast country (Goa, Hyderabad and West Bengal, discussed below). State and regional variations in social mores and resulting possible sexual abuse, the widely varying forms of child labour, and the myriad complexities of caste, class and ethnicity have not been charted in terms of abuse and exploitation. At the same time, it can be presumed that a large amount of data have been collected informally and formally by NGOs, researchers, government agencies and universities (often in local languages) from every corner of the country. The accumulation and analysis of such data are far beyond the scope of this review, but would be a beneficial activity.

For India, there are some constraints in the quality of data collection, there being a relative scarcity (given the size the country) of professional research organizations outside a few metropolitan areas. India is unique in South Asia for its focus on girls and women in research, policy and programming, and data on boys are scarce. While comprehensive studies have been made of child trafficking in India, they have focused almost exclusively on the sexual exploitation of girls and women.<sup>212</sup> Similarly, studies of sexual abuse have primarily focused on women, girls or adult survivors. While a few recent studies have attempted to redress that gap,<sup>213</sup> these have had a local focus; an overview of sexual abuse and exploitation of boys in India remains to be conducted.

While India has been going through notable social and economic transition, unlike some of its neighbouring countries, for example Afghanistan and Sri Lanka, it has not endured wide scale armed conflict or civil disruption. The economic and social transition has likely influenced, for example, the number of boys who have migrated from rural to urban areas, and the number of boys entering transvestite/transsexual communities in the advent of increased social liberalisation. However, it is not clear whether this recent transition has significantly affected the form and substance of boy abuse and exploitation as it has done for girls – for example, the recent rapid growth of free-agent ‘flying’ prostitution, of girls as well as women, solicited through mobile phones. It appears likely that the venues and forms of boy abuse and exploitation have not significantly changed in the last decade, with the exception of numbers. However, such speculation needs to be tested by fresh and comprehensive research.

### *5.1.3 Sexual abuse of boys*

With the exception of data from micro-studies scattered throughout the country, there is no verifiable quantitative evidence on the sexual abuse of boys in India and thus no picture of the overall situation.<sup>214</sup> Reporting of sexual abuse is inadequate in all settings, and most information is based on cases reported in newspapers or police files, which do not indicate the broader situation in terms of geographic or social spread. Most of the data on sexual abuse are not disaggregated by sex, or address only girls and women. Few of the studies on children

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<sup>212</sup> For example, National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, ‘A report on trafficking in women and children in India 2002-2003; Initiative for Social Change and Action, 2003, ‘Rescued trafficked children from commercial sexual exploitation: Case study of Delhi, Mumbai and Kolkata in India’.

<sup>213</sup> For example, ECPAT International (Akula, S.L.), 2006, ‘Situational analysis report on the prostitution of boys in India (Hyderabad); Lahiri, A. and Kar, S., 2006, ‘Dancing boys: Traditional prostitution of young males in India: A study report on launda dancers; Groupe Developpement, 2006, ‘Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh’.

<sup>214</sup> Save the Children Sweden Regional Office for South and Central Asia, 2007, ‘Mapping Save the Children’s response to violence against children in South Asia’.

living on the street or on boys sexually exploited through prostitution have collected data on the prior sexual abuse of these children in the home, community or school.

Despite the lack of studies, there are indications that sexual abuse of boys in the home and community in India is less prevalent than sexual abuse of girls.<sup>215</sup> Sexual abuse of boys in school settings, particularly in residential schools, by teachers, school attendants and peers, has also been noted.<sup>216</sup>

However, a relatively high level of sexual abuse of boys can be assumed due to the large proportion of boys living in extremely vulnerable situations. India has a high number of ethnic minorities and *dalits*, or scheduled castes. The sexual abuse and exploitation of *dalit* girls and women are well documented, and they provide a large proportion of those trafficked for sexual purposes.<sup>217</sup> While *dalit* boys may not be trafficked for sexual exploitation in great numbers, their social disempowerment coupled with their presence in low-level labour situations make them vulnerable to sexual abuse.

Aligned with India's caste system is the high prevalence of bonded labour. India has the largest number of children in bonded labour in the world, as high as 15 million children, and the majority are from *dalit* communities.<sup>218</sup> While there are inadequate data on the sexual abuse of boys in bonded labour in India, global data suggest a link between bonded labour and sexual as well as physical abuse.<sup>219</sup>

Another group of boys especially vulnerable to sexual abuse are those who dwell in urban slums. Due to vast rural-to-urban migration, numbering tens of millions of people in the last 20 years, slums cover large areas of major cities such as Mumbai and Kolkata. It can be presumed that a large number of boys are at risk in urban slum settings.

Migrating children and those living on the street are apparent throughout the country. Estimates of their number vary widely, in part due to lack of consensus on what constitutes a 'child of the street', and in part due to the difficulty in counting a mobile and elusive population. For example, estimates of children living on the street in Mumbai range from 35,000 to 400,000, and in Delhi from 150,000 to 400,000.<sup>220</sup> The data indicate that up to 40 per cent of children living on the street have experienced domestic violence, and 25 per cent have suffered physical abuse in the home.<sup>221</sup> Data on the prevalence of sexual abuse of children living on the street are lacking.

Sexual abuse in India also occurs among males who have sex with males. In South Asia, sexual engagement between males does not necessarily indicate a permanent sexual

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<sup>215</sup> Haq Centre for Child Rights, 2005, 'Status of children in India Inc'.

<sup>216</sup> Virani, P., 2000, 'Bitter chocolate: Child sexual abuse in India'.

<sup>217</sup> Initiative for Social Change and Action, 2003, 'Rescued trafficked children from commercial sexual exploitation: Case study of Delhi, Mumbai and Kolkata in India'.

<sup>218</sup> Human Rights Watch, 2003, 'Small change: Bonded labour in India's silk industry'.

<sup>219</sup> International Labour Organization, 2006, 'Violence against children in places of work'.

<sup>220</sup> Gvnet website <[www.gvnet.com/streetchildren/India.htm](http://www.gvnet.com/streetchildren/India.htm)> (accessed 12 September 2008).

<sup>221</sup> Groupe Developpement, 2006, 'Survival strategies: A study of children living on streets and railway platforms of West Bengal and Bangladesh'.

preference, and the variety of sexual identities is complex and linked with traditional customary practices. As in some other countries in region, in India boys may have sexual relations with other boys or with men as pre-adolescents or adolescents without establishing a permanent sexual preference for men. As youths, many boys sexually experiment with male partners during the onset of puberty, in part because custom forbids sexual activity with females (except female sex workers) and in part because there is no strict social prohibition of this behaviour, provided they are discreet about their activities.<sup>222</sup> This youthful sexual experimentation does not conflict with adult heterosexual relationships and marriage. At the same time, the lack of social prohibition, coupled with children's reluctance to report sexual abuse, can provide a screen behind which boys can be forcibly and unwillingly abused by men and other boys in the home and community.

*Chawas* is a name commonly used for men who have sex with men who prefer to retain male dress and do not display feminine characteristics. Due to the cultural imperative of marriage, many *chawas* marry and live observably heterosexual lives as adults. Others live with male partners, a social situation becoming increasingly common in urban India. For men who have sex with men who have a feminine gender construction, i.e., those who prefer to display feminine characteristics, there are several alternatives. Some maintain male dress and social presentation. Those who dress in female attire, whether usually or occasionally, are referred to as *zenanas*. Some spend part of their time dressed in male attire, even holding typical male jobs. Others spend all their time in female attire and live with other *zenanas*, as partners or in communities.

In Pakistan, the term *zenana* is used for transvestite males who may or may not be castrated, while in India the term is frequently used to distinguish non-castrated transvestite males from males of traditional castrated communities, who are generally known as *hijras*. Often, the terms *zenana* and *hijra* are used interchangeably.

*Hijras* have a long and in many cases respected tradition in South Asian society. The *hijras* refer to themselves as the 'third gender'. As boys or young men, they assume the dress and habits of women, and the majority are castrated. They are inducted into an established group of *hijras* through a ritual called *chatai*, in which the initiate becomes the 'daughter' of the guru, or head, of the household. As in the *guru-chela* (student) relationships of South Asian tradition, the young person becomes the 'property' of the guru and is provided with food, housing and clothing and is integrated into the community – in this case a community of persons with alternative sexual identity. Human rights violations in the form of castration still accompany the entry of a young male into the *hijra* community.

Traditionally, the *hijras* performed important social functions in the community, particularly ceremonies to bless newborn children, occasions that were noted for dancing, joking and ribald humour at the expense of the young father. *Hijra* gurus were often highly respected and conducted healing rituals for sick children and blessings for pregnant women.<sup>223</sup> In modern

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<sup>222</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>223</sup> Nanda, S., 1999, 'Neither man nor woman: The hijras of India'.

times, these traditions have eroded and most *hijra* communities live from begging and dance performance, while some also engage in prostitution.<sup>224</sup>

While this variety of sexual identities provides opportunities for men and boys to find communities of support in a society that might stigmatize them, it also provides opportunities for boys to be unwillingly abused. Peer pressure, coupled with discrimination in the family and school, may push a boy into social groups, including *zenana* or *hijra* communities, in which he is sexually abused and perhaps exploited. In the case of induction into *hijra* communities, boys may permanently separate from their families and may have themselves castrated due to peer pressure rather than to their own desire to assert an alternative sexual identity.

#### ***5.1.4 Sexual exploitation in pornography***

Little documented evidence can be found of the distribution of pornography or the abuse and exploitation of children in making pornography in India. At the same time, pornographic literature, photographs and videos are readily available throughout the country, from cities to rural towns. Internet cafés and chat rooms are ubiquitous in every city. In many Internet cafés, computer terminals are in small cabins, where adults and children can download and view pornographic materials in privacy. In interviews with traffickers as part of a study of trafficking of women and girls, 6 per cent of respondents stated that they had trafficked women and children for the production of pornographic material, not only within India but also to the Gulf states, Republic of Korea, the Philippines and the United Kingdom. Teenagers were preferred in trafficking for exploitation through pornography.<sup>225</sup> Pornographic production by foreign sex abusers using Indian children has also been noted in Mumbai and Goa.<sup>226</sup>

#### ***5.1.5 Other forms of sexual exploitation***

##### ***5.1.5.1 Prostitution***

As elsewhere in South Asia, there are no reliable estimates of the number of children being sexually exploited through prostitution. Numbers are difficult to verify because of the hidden nature of the activity and because prostitution may not be clearly recognized as sexual exploitation. The line between non-commercial sexual abuse and sexual exploitation is not always clear, particularly for boys. Many boys living on the street or engaging in child labour are routinely sexually abused, and such abuse might or might not be 'repaid' through the provision of food, shelter or money. Some boys engage in 'survival sex', either to meet immediate basic needs or to prevent harassment or more violent physical or sexual abuse. While the sexual abuse of boys in street situations is estimated to be high, and this abuse is

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<sup>224</sup> ECPAT International and Pakistan Paediatric Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>225</sup> National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, 'A report on trafficking in women and children in India 2002-2003'.

<sup>226</sup> ECPAT International and Equations, 2003, 'A situational analysis of child sex tourism in India (Kerala and Goa)'; National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, 'A report on trafficking in women and children in India 2002-2003'.

sometimes remunerative, these boys often do not consider themselves to be working in prostitution and seek to provide for their livelihoods in other ways.

At the same time, there are many boys who conduct prostitution as a primary occupation. As in other countries, in India research has indicated successive 'tiers of vulnerability', linking sexual and physical abuse in the home with separation from the protective family unit and entry onto the street or into low-level labour situations. These vulnerable situations may result again in sexual abuse, which increases the vulnerability of the child to sexual exploitation.

A study of boys working in prostitution in Hyderabad noted that most of the children were first sexually abused between ages 10 and 13.<sup>227</sup> One half of the boys were illiterate. They had left home primarily because of physical abuse, poverty, alcoholism of the father or breakdown of the family due to the death of a parent – similar to the findings from Bangladesh and Pakistan. Nearly half said that they had bad relationships with their family. After leaving home, the boys entered low-level jobs in the city, including rag-picking, day labour, hotel service and tea vending. In these labour situations they suffered sexual abuse, which led them to enter prostitution.

The boys in this study, mostly working in prostitution for women clients, had begun at ages 15 to 16, primarily due to peer pressure or exploitation by women. Other reasons contributing to boys entering prostitution were exploitation by men and the need to provide for their own livelihoods or to support family members.<sup>228</sup>

Among the boys in the Hyderabad study, over 70 per cent were subject to sexual abuse on the street by police, *hijras*, older boys and local men. Seventy-five percent of boys in the study provided services only to women, which is not typical of the majority of boys working in prostitution in South Asia, whose primary clients are men. These boys solicited their female clients on the streets and in parks, signalling their availability through colourful clothing and suggestive gestures. The female clients ranged from 29 to 33 years old, and comprised primarily housewives and college students. Both married and single women exploited the boys through prostitution.

A recent study has explored the sexual exploitation of boys involved in traditional entertainment, such as the *launda* dancers of Uttar Pradesh and Bihar states.<sup>229</sup> These are boys and men with feminine gender construction who dance in female makeup and attire at weddings, marriage processions and festivals during the three-month marriage seasons in the spring and the winter. Originally, transvestite dancers were hired for weddings by poor families who could not afford female dancers, but today the use of *launda* dancers is popular with all classes in these states. Wedding band companies hire the boys under three-month contracts, their salary determined according to their looks, grace and dancing abilities. Boys

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<sup>227</sup> ECPAT International (Akula, S.L.), 2006, 'Situational analysis report on the prostitution of boys in India (Hyderabad)'.

<sup>228</sup> Seabrook, J., 2000, 'Dangerous Liaisons' In Frederick, J. (ed). 'Fallen Angels: The sex workers of South Asia'.

<sup>229</sup> Lahiri, A. and Kar, S., 2006, 'Dancing boys: Traditional prostitution of young males in India: A study report on launda dancers'.



interviewed in the study stated that they were drawn to the work because of the relatively high pay, which allows many to send money to their families, and because it frees them to express their female identities.

Seventy per cent of the dancers enter the profession as children. Approximately 10 per cent are castrated members of *hijra* communities. Although they may originate from many states, the dancers are primarily recruited from the large gay community in Kolkata, from the 'cruising circuits' where men seek men. About 80 per cent of the boys are from urban or semi-urban families and 20 per cent are from rural families. About 60 per cent of the *launda* dancers conduct prostitution, according to the study. However, many are abused and sometimes gang raped by marriage party celebrants, who get drunk and molest the dancers. During the off-season, some of the boys return to Kolkata, *hijras* rejoin their communities and a few are taken into the houses of local wealthy men as 'mistresses', similar to the tradition of *bacha baazi* in Afghanistan and northwest Pakistan.

#### 5.1.5.2 Exploitation in travel and tourism

Sexual exploitation of children in travel and tourism is prevalent at tourist destinations throughout India. Despite the emphasis in media and programming on 'foreign paedophiles', most of the perpetrators appear to be Indian tourists and local residents rather than foreign tourists. A study of tourism-related sexual exploitation of children conducted in tourist destinations of the east coast of the country (including Mamallapuram in Tamil Nadu, Puri in Orissa and Digha in West Bengal) noted that the primary offenders were local tourists, often from the same state.<sup>230</sup> The children ranged in age from 8 to 18, and the majority came from families affected by poverty, an absence of primary caregivers and debt bondage. Many of the children were from fishing communities, which have recently faced difficulties due to reduction of the fishing industry.

A 2003 study of sexual exploitation in tourism in Goa and Kerala was primarily aimed at assessing exploitation by male foreign tourists.<sup>231</sup> The majority of the children conducting prostitution were from impoverished fishing communities, living in coastal villages or hut communities near the tourist beaches. Girls primarily worked out of the brothel area of Goa. Most of the boys were employed in restaurants, hotels and tourist shops near the beach and conducted prostitution as an adjunct. Many acted as tourist 'guides'. The majority of the children in the sample were under 12 years of age, although the mean age of boys being exploited in prostitution in Goa cannot be concluded from the small sample of the study. The exploiters included foreign tourists, long-term foreign residents, local men, migrant workers and seamen. However, the study focused on foreign tourists, implying that the majority of clients in Goa are non-Indian. Yet another study notes that Goa is a primary tourist destination for Indians, including the young, and is dominated by Indian tourist 'lads' on holiday, who also exploit children working in prostitution.<sup>232</sup> The latter study also noted the prevalence of female foreign tourists exploiting boys working in prostitution.

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<sup>230</sup> Equations, 2002, 'Tourism-related commercial sexual exploitation of children in the eastern coast of India'.

<sup>231</sup> ECPAT International and Equations, 2003, 'A situational analysis of child sex tourism in India (Kerala and Goa)'.

<sup>232</sup> O'Connell Davidson, J. and Taylor, J.S., 1995, 'Child prostitution and sex tourism: Goa'.

A study of sexual exploitation in tourism in Agra, Delhi and Jaipur also noted the extensive use of child prostitutes by both local and foreign tourists.<sup>233</sup> Data from this study regarding the boys' backgrounds complement the data from the Goa and Kerala study. In both, families were distinguished by domestic violence, poverty and lack of primary caregivers, and in both the children were distinguished by low education and the obligation to provide for their own and their families' basic needs. In both studies the boys were employed and were sexually abused by employers and co-workers.

#### *5.1.5.3 Trafficking for sexual exploitation*

There are numerous informal reports from the media and NGOs of trafficking of boys within the country for forced and bonded labour in agriculture, domestic service, begging and work in brick kilns, embroidery factories, rice mills and other small-scale industries, as well as trafficking to other countries for the fishing industry and to the Gulf states for work as camel jockeys.<sup>234</sup> However, there are relatively few formal studies on these situations (and reviewing all was outside the scope of this review). No nationwide studies have been conducted, and from existing data it is not possible to estimate the scope of boy trafficking in any sector, given the immense range of the country. At present data are not available to indicate trafficking of boys inside or outside India for sexual exploitation. However, as mentioned above, many of the situations into which boys are trafficked make them extremely vulnerable to sexual abuse and exploitation.

## **5.2 Legislation**

India acceded to the Convention on the Rights of the Child in 1992. It has ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. It has signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). It has not signed ILO Convention 182 on the Worst Forms of Child Labour. India adopted the Stockholm Declaration and Agenda for Action in 1996 and reaffirmed its commitment in Yokohama in 2001.

National legislation addressing the sexual abuse and sexual exploitation of children in India includes the Indian Penal Code 1860; Immoral Traffic Prevention Act 1956; Immoral Traffic Prevention Act Amendment Bill 2006; Juvenile Justice (Care and Protection of Children) Act 2000; Juvenile Justice Amendment Act 2006; Indecent Representation of Women (Prohibition) Act 1986; and Information Technology Act 2000. One piece of state legislation, the Goa Children's Act 2000, is notable for its comprehensiveness in addressing child sexual abuse and exploitation.

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<sup>233</sup> ECPAT International and Sanlaap, 2003, 'A situational analysis of child sex tourism in India (Agra, Delhi, Jaipur)'.

<sup>234</sup> ECPAT International, 2006, 'Global monitoring report on the status of action against commercial sexual exploitation of children: India'.

The Immoral Traffic Prevention Act 1956 (ITPA), with one exception, does not discriminate against boys in favour of girls in defining the victim, using the word 'person' rather than 'woman' or 'girl'. The exception is the provision on detaining a person in a brothel for the purpose of sexual intercourse, which discriminates against boys through the use of the words 'her' and 'woman or girl'. As well, passages in ITPA on detention, custody, placement in protective care and protective homes use the words 'person' and 'she'. As the term 'he/she' is used elsewhere, in legal consideration these passages would likely apply to boys as well.

However, regarding rape, the Indian Penal Code (IPC) states the victim as being a woman (or girl) and the perpetrator a man. Regarding 'unnatural offences', an undefined term indicating anal intercourse but not necessarily other forms of sexual abuse, the victim can be male or female and the perpetrator can also be male or female. Legislation under consideration makes no significant distinction between boys and girls.

### ***5.2.1 Definition of a child***

The definition of a child in Indian legislation is inconsistent. The ITPA defines a child as a person under the age of 16, but the Immoral Traffic (Prevention) Amendment Bill 2006 amended the age to 18. The IPC has no age definition of a child. It states that 'the word "man" denotes a male human being of any age' and similarly treats the word 'woman', as a female human being of any age. While there is no specified age of consent to sexual intercourse in Indian legislation, 16 is the age below which consent is irrelevant in statutory rape for girls, with stricter punishment if the girl is younger than 12. The Juvenile Justice Act 2000, Chapter 1, article 2 (k) defines a 'juvenile' or a 'child' as a person who has not completed his/her eighteenth year.

At the same time, the age of criminal responsibility as established in the Penal Code Chapter 4, article 82 is below 7 years of age. It states that the age of criminal responsibility may be raised to 12 years if the child is found incapable of understanding the nature and consequences of his/her act. This low age of criminal responsibility is not remedied by the Juvenile Justice Act. However, it extends juvenile justice protection to all children from age 16 to age 18, although it is not clear if this refers to the child's age at the time of offence or at the time of trial.

### ***5.2.2 Sexual abuse***

'Sexual abuse' per se is not defined in Indian legislation, and the legislation does not directly address child sexual abuse. Cases of child sexual abuse are addressed under adult laws. The legislation of India addresses some, though not all, forms of sexual abuse through diverse provisions, most of which are found in the Indian Penal Code 1860. Many of these provisions exclude boys.

Regarding procurement of a child for sexual intercourse, the IPC outlaws forcing or seducing a minor girl (under 18) into 'illicit intercourse', but it does not protect boys. No law forbids procuring a child for sexual intercourse through the Internet. While the IPC provides stringent measures to protect girl rape victims, its protections for boy victims are insufficient. Section

375 on rape addresses only females. In Section 376, covering abuse by persons caring for the child, the provisions forbidding intercourse by a public servant, a jail superintendent or hospital staff forbid only the rape of women, although ‘children’ are protected from rape committed by management or staff of a children’s institution. Anal intercourse falls under the offence of sodomy, or ‘immoral acts’, in Section 377 of the Indian Penal Code, which criminalized consensual homosexual acts among adults, as well as non-consensual acts and sex involving minors. While this could be used to prosecute those who rape boys, it also renders the boy a potential criminal, and in the past the law has been frequently used to harass males having consensual sex. In July 2009, the criminalization of consensual homosexual acts among adults was declared unconstitutional by the Delhi High Court.

There is no legal acknowledgement that parents and siblings can be perpetrators, nor any specific legislation forbidding incest in India. The exception to this is the Goa Children’s Act 2003, which includes incest among the ‘sexual offences’ for which a perpetrator can be punished. The definition of incest includes anyone who is a relative or related by adoption.<sup>235</sup> The penalties are insignificant: one year in prison and a fine. However, the ITPA Section 9, on seduction of a person in custody, refers to those persons who have “custody, charge or care of” another person. This and other provisions relating to the abuse of persons by their custodian can be applied to incest cases.

Non-penetrative sexual abuse, including molestation and sexual harassment, could be addressed in Indian law through Section 354 of the IPC (“...outraging the modesty of a woman”), although the terminology is vague and inadequate to bring about a conviction. As the title indicates, the provision applies only to females. As of this writing, an Offences Against Children (Prevention) Bill was being prepared by government, NGOs, legal experts and social workers. This bill would recommend punishment for unlawful sexual contact, non-contact sexual offences with a child, sexual harassment and intimidation.

National legislation does not cover other forms of child sexual abuse, including using indecent sexually explicit language towards a child as well as indecent exposure of sexual activities and showing children pornographic material. They could, with some effort, fall under the IPC sodomy law provisions of ‘unnatural acts’, but it is doubtful whether the existing law has the strength to provide conviction. There is no reference to women as perpetrators of sexual intercourse with a minor, rape or other forms of child sexual abuse in either the ITPA or the IPC.

Most forms of sexual abuse are addressed in the Goa Children’s Act, which penalizes touching, voyeurism, exhibitionism, forcing children to watch sexual acts and using obscene language with children.<sup>236</sup> The Law Commission of India reviewed the laws related to child sexual abuse and recommended amendments to the Indian Penal Code in its 172nd report.<sup>237</sup> The report suggests substituting the offence of rape with the broader offence of ‘sexual

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<sup>235</sup> Goa Children’s Act 2003, Part 2 (y) (iii)

<sup>236</sup> Goa Children’s Act 2003, Part 2 (y) (ii)

<sup>237</sup> Kathmandu School of Law, Terre des hommes Lausanne, European Commission and SALS Forum, 2007, ‘Regional study for the harmonisation of anti-trafficking legal framework in Bangladesh, India and Nepal with international standards’, Kathmandu, KSL.

assault’, which covers additional forms of sexual abuse, including non-penetrative sexual contact.

### ***5.2.3 Sexual exploitation in pornography***

Legislation addressing pornography is found in the Indecent Representation of Women (Prohibition) Act 1986 (IRWPA), some provisions of the Penal Code 1860 and the Information Technology Act 2000. The legislation inadequately covers the full range of pornographic activities; focuses on the impact of obscene publications upon public morality rather than on the abuse and exploitation perpetrated in the production of pornography; does not distinguish between pornography produced using children or using adults; and discriminates against men and boys.

The IRWPA protects the integrity of women and the public in general by forbidding production and distribution of materials that are “...likely to deprave, corrupt or injure the public morality or morals”,<sup>238</sup> but it does not address the sexual abuse and exploitation inherent in creating pornography. The term ‘pornography’ is not used in the Act. In its definition of “indecent representation of women”, the effects of pornography upon the victim are limited to “being indecent, or derogatory to, or denigrating women”. While girls may be included in the definition of ‘women’, boys are not.

The provisions of the IPC relating to pornography reflect its 1860 genesis. They address protecting the public from the sale and distribution of materials that are ‘lascivious’ and may “tend to deprave and corrupt persons” who encounter them. At the same time, the IPC is superior to the IRWPA 1986 in that it addresses one of the forms of child sexual abuse by prohibiting the sale and exposure of pornographic materials to young people. The Young Persons (Harmful Publications) Act 1956 prevents the publication and dissemination of publications, with or without pictures that are harmful to young persons.<sup>239</sup> The act does not discriminate regarding offences committed against boys or girls. However, the crime carries minimal penalties.

The primary purpose of the Information Technology Act 2000 is to regulate, license and ensure copyright protection for the information technology sector, and its attention to pornography is slight. It simply adds materials ‘in electronic form’ to the language of previous acts, repeating the same moral reasoning of the IRWPA and IPC regarding the danger of ‘lascivious’ materials that may “tend to deprave and corrupt persons”.<sup>240</sup> It does not define child pornography, address the abuse and exploitation perpetrated during the production of pornography or remedy the exclusion of boys from the IRWPA. The Offences Against Children (Prevention) Bill, in preparation, would include punishable offences for using children in the production of pornography.

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<sup>238</sup> Indecent Representation of Women (Prohibition) Act 1986.

<sup>239</sup> Young Persons (Harmful Publications) Act 1956

<sup>240</sup> Information Technology Act 2000, section 6

The Goa Children's Act<sup>241</sup> addresses many aspects of pornography not found in national legislation. Notably, the Act criminalizes making children pose for the production of pornography, deeming it a form of sexual abuse. This follows from article 2 (y) (i) of the Act. It is also stated in that unaccompanied children under the age of 14 years are not allowed to use cyber cafés, and penalizes those entrepreneurs who allow children access to prohibited Internet sites and to any 'objectionable media' on film, video and other electronic form. This follows from article 13(16)(17)(18). The Act also requires photo and film processing laboratories to report child pornography to the police. Article 8(14) states that "...it shall be mandatory for a developer of photographs or films, if he finds that the photos/films developed by him contain sexual /obscene depictions of children, to report this to a police officer...". In addition, article 13(15) of the Act established a Special Advisory Group with the aim to suggest ways to protect children from the harmful influences of the Internet.

## **5.2.4 Other forms of sexual exploitation**

### *5.2.4.1 Prostitution*

Almost all cases of children working in prostitution are registered under the ITPA and the ITPA Amendment Bill of 2006. A magistrate then decides how to handle the case, such as whether or not to prosecute or confine the child for rehabilitation. The Act does not prohibit prostitution as such, but criminalizes the mechanisms by which prostitution is conducted (keeping a brothel, engaging others in prostitution and soliciting for prostitution). It aims to punish third parties who benefit from prostitution, such as brothel owners and traffickers, as well as clients. The term 'prostitution' is ambiguously defined in the ITPA as the "sexual exploitation or abuse of persons for commercial purposes", and there is no reference to 'child prostitution'. The Act does not distinguish whether the person in prostitution is male or female.

The ITPA is primarily concerned with adult women in prostitution and includes no provisions directly relating to children. The law does not state whether children in prostitution are victims or offenders. Thus a literal reading of the Act could allow prosecution of a child victim of sexual exploitation. In fact, as one analyst noted,

The Mumbai High Court found that children rescued from brothels should be treated as victims in need of care and protection, but that children 'soliciting' or 'voluntarily' in prostitution should be treated as child offenders under the Juvenile Justice Act.<sup>242</sup>

### *5.2.4.2 Exploitation in travel and tourism*

The Goa Children's Act 2003, article 10 seeks to address child sexual exploitation in travel and tourism by obligating tourism industry operators to reduce opportunities for child sexual exploitation by tourists. These include forbidding children to enter or stay in hotels or

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<sup>241</sup> [www.goagovt.nic.in/documents/goachildact2003.pdf](http://www.goagovt.nic.in/documents/goachildact2003.pdf), accessed on 16 March 2010

<sup>242</sup> *Prerana versus State of Maharashtra*, Criminal Writ Petition 788 of 2002, Mumbai Height Court.

residences with persons not related to them, obliging hotel personnel to report children residing with non-relatives and obliging transportation personnel to report any suspected trafficking incidents at airports or railway stations or along highways.

#### *5.2.4.3 Trafficking for sexual exploitation*

Under the ITPA legislation and its 2006 amendment, trafficking offences are registered, and they supersede provisions in the IPC concerning the sale and purchase of minors for prostitution, procuring a child for prostitution, importing a child from a foreign country and kidnapping a child from legal guardianship. Many of the provisions in the IPC referred to females to the exclusion of males, and this has been remedied in the ITPA.

The ITPA does not define child trafficking, nor is it adequately defined in other national legislation. The provisions addressing trafficking are limited to ‘buying’, ‘selling’, ‘procuring’ and ‘importing’ for purposes of prostitution. They do not include other key activities in the trafficking scenario, including recruitment, transportation, transfer, harbouring or receipt of trafficked persons. The Goa Children’s Act 2003, article 2(z) is the only piece of legislation in India that defines child trafficking in accordance with the Palermo Protocol. The ITPA Amendment Bill, however, provides a definition of trafficking in persons that includes most of the features of the definition in the Palermo Protocol. It also defines a child as a person under 18, rather than 16.

### **5.3 Policy**

India has no specific plans of action or other policy documents that directly address child sexual abuse. However, it is addressed in other policy documents on child protection and trafficking in persons.

In 1998, the Committee on Prostitution, Child Prostitutes and Children of Prostitutes under the Department (now Ministry) of Women and Child Development issued a Report and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children (RPOA). Following comments that prior interventions had not been as effective as desired, the Committee presented a Plan of Action that covered prevention, awareness raising, health services, education, housing, legal reforms and rescue and rehabilitation, among others. The RPOA established Central and State Advisory Committees on trafficking, comprised of members from government, NGOs and international organizations to monitor implementation of the plan and assist in forming state plans of action on trafficking.

However, the RPOA did not address the sexual exploitation of boys in its discussion of ‘modes of initiation into sexual exploitation’, ‘extent and magnitude of trafficking and sexual exploitation’ and ‘situation of women and child victims’, or in its recommendations.<sup>243</sup> Prevention activities did not address situations conducive to boys entering prostitution, including street living, child labour and migration (‘migration’ referred to only ‘migrant women and girls’). Nor did they address the linkages of sexual abuse in the home, community

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<sup>243</sup> Department of Women and Child Development, Republic of India, 1998, ‘Report and plan of action to combat trafficking and commercial sexual exploitation of women and children 1998’.

and school with vulnerability to sexual exploitation. Although the document generally referred to ‘children’, in many sections girls and not boys were specifically noted for intervention.

Subsequently in 2006, the Central Advisory Committee drafted the Integrated Plan of Action to Prevent and Combat Human Trafficking, with Special Focus on Children and Women (IPOA)<sup>244</sup>. The IPOA is more a set of guidelines than a plan of action, providing general recommendations for action as well as delineating the roles of government and private sector stakeholders. As with the RPOA, the document conflates ‘trafficking for sexual exploitation’ with ‘sexual exploitation’ as such. Thus it does not address key issues relevant to the sexual exploitation of boys, including separation from family, and the linkages between sexual exploitation and abuse in the family, community and workplace.

The IPOA, like the RPOA, is focused on female prostitution, and while including ‘street-based’ along with ‘brothel-based’ prostitution, it identifies female arenas of non-brothel-based prostitution, such as “massage parlours, escort services, party hostesses, attendants, companions, etc.”<sup>245</sup> Prevention, protection, rescue and rehabilitation activities do not address the more informal activities of prostitution by boys, including the linkages with street living and labour in the hotel and tourism sector. Welfare schemes, education and vocational training, awareness activities and other initiatives to create protective environments are primarily focused on women and girls.

The National Plan of Action for Children 2005 (NPAC), despite its brevity, is more comprehensive than the RPOA or IPOA in addressing the scope of child sexual abuse and exploitation, and it is less discriminatory against boys. The NPAC covers a wide range of protection concerns through its objective (in section 11, ‘Children in Difficult Circumstances’) 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>246</sup> This section comprehensively notes the range of children vulnerable to sexual abuse and exploitation, including children living on the street, migrant children, children affected by disasters, children of commercial sex workers and children born as eunuchs<sup>247</sup> or brought up by eunuchs, among many others. Among the strategies are developing a system of reporting abuse, developing community-based protection systems and arranging night shelters for children at risk.

The NPAC places specific focus on child sexual abuse, separating it from child trafficking, in section 13, ‘Sexual Exploitation and Child Pornography’.<sup>248</sup> Among the objectives in this section are identifying root causes of sexual abuse and exploitation, recognizing and addressing sexual abuse in the home by family members and the sexual abuse of children in

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<sup>244</sup> National Human Rights Commission, New Delhi, India, <http://nhrc.nic.in/dispararchive.asp?fno=1543>, accessed on 16 March 2010.

<sup>245</sup> Ministry of Women and Child Development, Republic of India, 2006, ‘Integrated plan of action to prevent and combat human trafficking, with special focus on children and women 2006’.

<sup>246</sup> National Plan of Action for Children 2005.

<sup>247</sup> In India the term ‘eunuch’ refers both to males who have been castrated and to those born with indeterminate genitalia.

<sup>248</sup> National Plan of Action for Children 2005, Section 13.



institutions. However, the NPAC has limited goals, objectives and strategies to address child pornography and no mention of the sexual exploitation inherent in the production of pornography using children.

The NPAC has a separate section on child trafficking. Among its strategies to address trafficking is dedicating central and state authorities to deal exclusively with trafficking. The NPAC is intended to be administered through state plans of action. However, although some states, including Maharashtra, have developed state action plans to address trafficking,<sup>249</sup> action plans to address child sexual abuse have not been formed in any state.

## **5.4 Programme Responses**

The immensity of India makes it difficult to summarize the country's programme responses through examples of practices. In smaller countries (Bangladesh, Nepal, Pakistan and Sri Lanka) it is easier for government and civil society to interact and share practices and ideas. In India, hundreds of programmes of widely varying scope and effectiveness address the sexual abuse and exploitation of boys. At the same time, geographical distances, resource limitations and differing languages limit networking among NGOs in different parts of the country. For example, governments and NGOs in both Tamil Nadu and West Bengal have initiated numerous outreach activities to provide boys living on the street with safe night shelter, but due to language differences, lack of networking and limited resources for visits, they have negligible contact and sharing of experiences. Thus many activities operate in local isolation, and a comprehensive assessment of programme responses to the sexual abuse and exploitation of boys in India is a major task that needs to be undertaken.

The Ministry of Women and Child Development has initiated the Integrated Child Protection Scheme, which seeks to apply a holistic methodology to address a broad spectrum of protection concerns for both boys and girls. Yet to be mobilized in most of India, the scheme establishes state and district child protection units whose purpose is to mobilize and support village-level protection services. When implemented, it has the potential to address many of the issues that contribute to the sexual abuse and exploitation of both boys and girls. The scheme envisions providing family intervention activities and emergency outreach services that could reduce the separation of children from their families and increase reintegration of children with their families after withdrawal from exploitation.

### **5.4.1 Children's participation**

With the support of the NGO Sanlaap in Kolkata (West Bengal) and counterpart NGOs in Nepal and Bangladesh, child survivors and young people at risk engage in regional participatory activities, including peer support, community awareness and public advocacy, through the Youth Partnership Project coordinated by ECPAT International.

UNICEF has developed numerous resources to promote child participation in developing policies and programmes. Documents include 'Promoting Children's Participation in

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<sup>249</sup> Government of Maharashtra, Women and Child Development Department, 2007, 'State action plan to combat human trafficking 2007'.

Democratic Decision-making’ and ‘Experiments in Engaging with Children in the Development Process’.<sup>250</sup> Children participated in the National Conference on Child Rights organized by the National Commission for the Protection of Child Rights in Delhi for International Child Rights Day 2007.

UNICEF and other organizations have supported the development of child reporters, who provide their insights to newspapers across India. In 2007, the director of the Delhi centre of Doordarshan, India’s national television channel, invited these young reporters to provide stories on children’s issues to their nearest national television broadcasting centre. The National Doordarshan Network proposes to keep a regular link with the network of child reporters for future programming on national television.

#### ***5.4.2 Monitoring and data collection***

Little formalized monitoring of child abuse cases takes place in India. Some NGOs, including Sanlaap and Prerana, maintain databases on cases of sexual exploitation, although these are primarily limited to girl victims. The National Human Rights Commission produced an extensive report on child trafficking as of 2002-2003, calling for the establishment of comprehensive monitoring systems.<sup>251</sup> However, the focus of this document is on girl victims. The Ministry of Social Justice plans to develop a national monitoring system for missing children by linking data from various government agencies. Whether this will include sexual abuse and exploitation cases is yet to be determined.

#### ***5.4.3 Prevention through advocacy and awareness-raising***

Throughout India, NGOs conduct advocacy and awareness-raising activities related to sexual abuse and exploitation of boys with governments, parents, teachers and children. Some examples follow.

Prerana, an NGO in Mumbai, conducts programmes for adolescent boys on physical and sexual violence, sexual abuse, reproductive health and gender issues using a training manual titled ‘Choose a Future: Issues and Options for Adolescent Boys’. Originally developed for adolescent girls by the Center for Development and Population Activities, the manual was adapted to the Indian context through support from the United Nations Population Fund.

Childline India Foundation in Mumbai, in collaboration with Child Helpline International, practices community-based outreach, holding monthly open houses at railway stations, markets and bus terminals where children can express their problems, access services and engage in creative awareness-raising activities such as puppetry and street plays. Bal Mazdoor Union (Child Workers’ Union), supported by the NGO Butterflies in Delhi, holds regular meetings about child rights issues with working children and children living on the street. The sessions address sexual abuse issues, and children discuss strategies for taking collective action in their communities to resist abuse.

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<sup>250</sup> <[www.unicef.org/india/children\\_2741.htm](http://www.unicef.org/india/children_2741.htm)>, accessed on 15 March 2010

<sup>251</sup> National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, ‘A report on trafficking in women and children in India 2002-2003’.

The Sangath Centre for Child Development and Family Guidance in Goa works on child development and family behavioural and mental health. It works extensively on child sexual abuse cases, with a focus on child sexual exploitation through travel and tourism. The centre also conducts workshops on childhood and sexuality for parents, teachers and other caregivers.

The Socio-Legal Aid Research and Training Centre in Kolkata conducts education programmes for boys aged 10 to 16 on sexual abuse and exploitation, HIV/AIDS and sexual health. The Centre for the Prevention and Healing of Child Sexual Abuse in Chennai conducts awareness programmes with schools and working children on sexual abuse. The organization has developed a personal safety education manual that empowers children to take part in their own protection by giving them age-appropriate information and teaching life skills.

As in other countries of the region, in India the media often present incidents of sexual abuse and exploitation in a sensational manner. Stereotyping dramatic incidents of sexual violence such as gang rape is common, and the media rarely do investigative reporting of more common sexual abuse and exploitation, particularly concerning boys. In addition, some media have abused children's rights to privacy and confidentiality by revealing identities of the victims. The fair and objective presentation of sexual abuse and exploitation in the media is a primary concern of government and international organizations. Following workshops in Goa, Ranchi, Jaipur and Puri for legal experts, police, journalists, editors and representatives from electronic media, the National Human Rights Commission, with support from UNICEF, developed a Guidebook for the Media on Sexual Violence against Children.

#### ***5.4.4 Prevention through outreach to vulnerable boys***

The boys most vulnerable to sexual abuse and exploitation, such as working children and children living on the street, are an elusive and mobile group. They are best reached by outreach workers who contact the children at their places of work and recreation, referring them to drop-in centres that offer services such as health care, crisis response, counselling, non-formal education and life skills to help them resist sexual abuse. Such drop-in centres and similar non-institutional programmes have been established throughout India. Many non-institutional services for vulnerable boys are conducted on an experimental, ad hoc basis, with limited integration and collaboration among service providers in a single city or geographical area.

Kolkata, with a large population of boys living on the streets, was one of the first cities in India to focus on the needs of vulnerable boys. A variety of non-institutional services are available, with considerable networking and interaction among the care providers. Don Bosco Ashalayam provides high-quality vocational training for boys at its residential centres. Its outreach programme includes non-formal education and psychological support for children living on the street. Staff are posted at Howrah Railway Station to intercept children newly arrived from outlying areas and refer them to services. Loreto Day School collaborates with the City-Level Programme of Action for Street and Working Children, operated by the Kolkata Municipal Corporation. They run a teacher training institute and oversee the

operation of 435 Shikshalaya (children's) centres providing formal education for 26,000 children, as well as dozens of 'schools on the street' for children living on the street.

Sanlaap operates drop-in centres in red-light districts of Kolkata, providing education and awareness-raising to vulnerable girls and boys. Praajak conducts outreach for boys in government homes, providing counselling, awareness training and other services to boys confined in institutions. Childline in Kolkata responds to requests from boys and girls throughout the city and neighbouring rural areas, providing telephone counselling, referring children to services (often at the above-named organizations) for health and legal problems, and physical, psychological and sexual abuse. Unlike most other cities in India, in Kolkata NGOs and government are well linked. They exchange ideas and skills and provide complementary forms of outreach services to vulnerable boys.

#### ***5.4.5 Addressing exploitation in pornography***

There is little documentation of interventions to address pornography and child sexual abusive material in India. Few offences have been registered under existing laws anywhere in the country.<sup>252</sup> Overall, government and civil society organizations equate the production of pornography almost exclusively with foreign travelling sex offenders, and this attitude is reflected in research.<sup>253</sup> The NGO NetSafety has established a website to educate parents on the impact of online pornography on children.<sup>254</sup> It provides tips on how to prevent children's access to pornography. It also publishes email addresses of police in Delhi, Chandigarh and other cities so parents may contact police if their children are solicited over the Internet.

Microsoft has been working with the International Centre for Missing and Exploited Children and Interpol to help fight online child abuse in India.<sup>255</sup> These organizations are training Indian law enforcement agencies, such as the Central Bureau of Investigation, in technologies, tools and procedures for countering online child pornography and other cyber crimes against children. A pilot training programme has been conducted for the Bureau and the police in Kerala, and the Centre plans to extend the programme to other states. The programme works to mobilize financial institutions worldwide, including credit card companies, to develop a system that will monitor and report online commercial transactions involving crimes against children. Microsoft also plans to work with NGOs and other agencies to educate parents and children about the risks to children on the Internet.

#### ***5.4.6 Addressing exploitation in travel and tourism***

In response to the growth of tourism for sexual exploitation of children, organizations in Mumbai and Goa have developed a Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism. They have encouraged local, national and international

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<sup>252</sup> ECPAT International and Plan International, 2004, 'Report on laws and legal procedures concerning the commercial sexual exploitation of children in India'.

<sup>253</sup> National Human Rights Commission, UNIFEM and Institute of Social Sciences, 2004, 'A report on trafficking in women and children in India 2002-2003'.

<sup>254</sup> NetSafety <netsafety.nic.in/>

<sup>255</sup> <[www.infoworld.com/article/07/01/19/HNmsfightsonlinechildabuse\\_1.html](http://www.infoworld.com/article/07/01/19/HNmsfightsonlinechildabuse_1.html)> (accessed 12 October 2008)

tourism operators, including airline companies, to promote the code. In 2006, awareness sessions on the code and on sexual exploitation in tourism were provided in Goa for major Indian travel and tourism operators.

#### ***5.4.7 Responses to sexual abuse and exploitation***

##### *5.4.7.1 Children's reporting of abuse*

In the last several years, 24-hour helplines for children in distress have been established in more than 80 cities and towns across India. The Childline system, supported by Childline India Foundation and Child Helpline International, is intended to be part of the government's Integrated Child Protection Scheme. Local organizations across the country collaborate with Childline, housing the telephone response counsellors in their offices and shelters. Children report injuries, health problems, legal concerns and physical, psychological and sexual abuse.

Similarly, families who have lost children can seek help in 40 cities across the country through a missing child website ([www.missingchildsearch.net](http://www.missingchildsearch.net)). Reports of missing children are monitored by child welfare organizations throughout India. The website was launched by the Don Bosco National Forum for Youth at Risk, in association with UNICEF. The Forum extends services to hundreds of children who are victims of war, conflict, natural calamities, sexual exploitation, trafficking and HIV/AIDS. It also provides outreach services, drop-in centres and safe night shelter for children living on the street. Don Bosco is also a partner in Childline India Foundation.

##### *5.4.7.2 Safe shelter and crisis response*

India has a multitude of shelters for children operated both by NGOs and by government agencies. The great majority of shelters are for women and girls. The Juvenile Justice Act provides for the establishment of children's homes and drop-in centres in every state, to be operated by state government in collaboration with designated NGOs. However, the majority of such homes are for girls, and boys are usually placed in government remand institutions. Few drop-in centres have been established under the Act.

The Ministry of Women and Child Development has established a number of schemes to prevent sexual exploitation and provide rehabilitation services for women and girls removed from prostitution. These include Swadhar Homes and Short Stay Homes (Character Improvement Homes); Kishori Shakti Yojana (Adolescent Girls Empowerment Scheme) and Balika Smiriddhi Yojana (Girls Child Welfare Scheme). They are intended to change family and community attitudes about girls and promote income-generation. All of these schemes exclude boys. Ujjawala, a comprehensive scheme for prevention, rescue, rehabilitation and reintegration of trafficking victims, does not explicitly exclude boys, but is directed primarily at girls.

State-operated shelters and 'vocational training centres' for boys are found in all major cities, but the quality and scope of care are limited. However, most boys who are vulnerable to sexual abuse and exploitation, such as children living or working on the street, are reluctant to

give up their 'freedom' and enter shelters, which they equate with prisons. In response, some state governments and municipal corporations have established open-access night shelters and drop-in services for boys. The Pune and Kolkata Municipal Corporations provide shelter and drop-in services for boys living on the street. Similarly, the Department of Education, Government of Delhi, in association with the NGO Centre for Equity Studies, has a project to refurbish government schools and other buildings to accommodate children living on the street. However, due to resource and personnel constraints, services such as counselling and crisis response for sexual abuse are limited.

In India, the bulk of open-access night shelters and drop-in services for boys are operated by NGOs. The quality of care varies widely. As mentioned above, many operate in relative isolation. Most NGO facilities appear able to provide adequate physical protection, nutrition and shelter as well as adequate referral to medical care, including for HIV/AIDS. However, counselling, crisis response, preventive education and children's participation in shelter activities are generally inadequate, despite the fact that model programmes and training facilities exist throughout the country.

#### *5.4.7.3 Psychosocial care*

India excels in the quality of its psychosocial counselling training and practice, although most activities are provided by a few urban organizations and training institutions and are insufficiently spread throughout the country. Services focus on the sexual abuse and exploitation of girls and women and the psychological needs of adult survivors.

The National Institute of Mental Health and Neuroscience in Bangalore provides psychiatric care for girls, boys and adults who have been sexually abused. It conducts training, counselling and awareness and prevention programmes on child sexual abuse, as well as gender sensitization and masculinity programmes. The Centre for the Prevention and Healing of Child Sexual Abuse in Chennai provides counselling and therapy to survivors of child sexual abuse. Saarthak, a counselling centre aligned with the Department of Psychiatry and Psychotherapy at Indraprastha Apollo Hospitals in Delhi, provides counselling to adult male survivors of sexual abuse. Saarthak has developed comprehensive training manuals on counselling and psychosocial care. The Ministry of Women and Child Development, in collaboration with the National Institute of Public Co-operation and Child Development and UNICEF, has developed the Manual on Counselling Services for Child Survivors of Trafficking.

However, few counselling training programmes are designed to address the needs of boys, and few professionally trained counsellors are available to boys at the street level, except those working on HIV/AIDS. Throughout India's major cities, HIV/AIDS counsellors work with vulnerable boys, primarily those having sex with males and those engaged in prostitution. The Naz Foundation (India) Trust is dedicated to reducing the risks of HIV and other sexually transmitted infections for boys and men (as well as girls and women). It conducts awareness and empowerment programmes for boys and men of alternative sexual identities. The Foundation also supports NGOs across the country that address the needs and issues of men having sex with men. HIV/AIDS preventive awareness activities include sexual

negotiation and protection from sexual abuse. The transference of the skills and experience of the Naz Foundation and similar HIV/AIDS-related organizations would benefit government and civil society organizations that address vulnerable boys from trafficking, child labour or sexual abuse perspectives.

## 6.0 COUNTRY PROFILE: NEPAL

### 6.1 Research Findings

#### 6.1.1 Country background

In the past 15 years, Nepal has undergone transitions that have dramatically changed the social fabric of the country and damaged the traditional extended family ‘safety nets’ for many thousands of children. Nepal is exceedingly poor, with more than one-third of the population living below the poverty line and an increasing disparity between the rich and the poor. A decade of civil war, ending in 2007, displaced tens of thousands of people, many of whom moved to urban and semi-urban areas. With the civil conflict came political instability, violence, governmental corruption and erosion of the rule of law.

Children make up nearly 40 per cent of the country’s 27 million people,<sup>256</sup> and nearly 40 per cent of children between ages 5 and 14 are engaged in labour.<sup>257</sup> This is one of the highest proportions of working children in the world. Just 20 years ago, the population of Nepal was almost entirely rural, but massive internal migration has swollen urban areas to 16 per cent of the population.<sup>258</sup> This has divided extended families and created large areas of poor housing occupied by single or fragmented families. In addition, the country has become increasingly dependent on remittances from Nepalese men working overseas, primarily in Malaysia and the Gulf states. This out-migration has left more women-headed households and reduced protection for children.

These changes have increased the vulnerability of boys and girls to sexual abuse and exploitation. The conflict resulted in a massive displacement of boys and young men from rural areas, many of whom fled to the capital or out of the country to avoid conscription into Maoist guerrilla forces or punishment by government soldiers on suspicion of being Maoist sympathizers. Recent years have seen significant growth in the number of boys separated from their families and working in urban labour sites, as well as an increase in the number of boys living on the street.<sup>259</sup> Both of these groups are known to be at high risk of sexual abuse and exploitation. In addition, in the past five years the rapid growth throughout the country of public sex access points such as dance bars and massage parlours has provided additional venues for the sexual exploitation of both boys and girls.<sup>260</sup>

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<sup>256</sup> United Nations Statistics Division, 2008, ‘UNdata Nepal. 2007’.

<[data.un.org/CountryProfile.aspx?crName=Nepal](http://data.un.org/CountryProfile.aspx?crName=Nepal)>, accessed on 16 March 2010.

<sup>257</sup> United States Department of Labor, 2008, ‘2007 findings on the worst forms of child labor: Nepal’. UNHCR Refworld: <[www.unhcr.org/refworld/docid/48caa483c.html](http://www.unhcr.org/refworld/docid/48caa483c.html)>

<sup>258</sup> United Nations Statistics Division, 2008, ‘UNdata Nepal. 2007’.

<[data.un.org/CountryProfile.aspx?crName=Nepal](http://data.un.org/CountryProfile.aspx?crName=Nepal)>

<sup>259</sup> ECPAT International and Child Workers in Nepal, 2008, ‘Out of the dark: The emergence of boys’ prostitution in Nepal’ (unpublished draft).

<sup>260</sup> Ibid.



### **6.1.2 Knowledge base**

The knowledge base on the sexual abuse and exploitation of boys in the urban areas of Nepal is relatively comprehensive, and as in other countries of South Asia, almost absent for rural areas of the country. Several studies (discussed below) on street children and boy prostitution in urban areas have been recently conducted using sound methodologies, and thus the knowledge base in these areas is, if not immense, current and reliable. Data on family- and community-based sexual abuse of boys or girls, with the exception of some case studies, newspaper reports and contact centre reports, are lacking. As well, research is lacking on social mores and sexuality in rural areas, including among the myriad castes and ethnicities. Little is known about the situation of boys in child labour, either in rural or urban areas, beyond basic survey data on age, form of labour, etc. Linkages of boys' labour to abuse and exploitation have not been explored.

As with India, until recently almost all research focused on the trafficking of girls and women for prostitution. Two studies on the trafficking and abuse of boys were conducted in 2002 (referred to below), but were not of sufficient methodological rigour to be entirely dependable. The quality of research on abuse and exploitation in Nepal has until recently been conducted primarily by NGOs, and it may be judged to have been relatively weak in technical terms. Almost all has been semi-quantitative, that is, using survey methodologies on small populations, resulting in neither solid quantitative nor qualitative outputs. Substantive qualitative research on boys undergoing sexual abuse or sexual exploitation remains to be conducted. In addition, Nepal has recently undergone a decade of civil conflict, and remains in a state of weak governance and rule of law, coupled with rapid rural to urban migration and the rapid growth of urban slums. Social disorder in Nepal has doubtless had considerable impact on the abuse and exploitation of boys, and current research is greatly needed to understand the present situation

### **6.1.3 Sexual abuse of boys**

Studies have shown a high prevalence of different forms of sexual abuse in urban and semi-urban areas in Nepal; the research is insufficient to ascertain the prevalence in rural areas. From the limited data available, it appears that abuse of boys is more prevalent in urban areas, while abuse of girls is more prevalent in rural areas.<sup>261</sup>

In a 2005 study of 3,960 boys and girls (both in and out of school) conducted by CWIN,<sup>262</sup> almost 8 per cent of the boys and 10.5 per cent of the girls reported serious contact forms of abuse, including oral sex and penetration. Molestation (touching or fondling over or under the clothes) was reported by more girls than boys (22 per cent versus 13.5 per cent). As expected, children living on the street and in slums experienced a higher incidence of abuse than others. Children aged 13 to 15 were far more likely to be sexually abused than older or younger children. The data on age and abuse prevalence were not disaggregated by sex.

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<sup>261</sup> Child Workers in Nepal and UNICEF, 2005, 'Violence against children in Nepal: Child sexual abuse in Nepal: Children's perspectives'.

<sup>262</sup> Ibid.

A 2008 study of sexual abuse of children of the street in Kathmandu showed that more than one-fifth, almost all boys, had been abused through oral sex or penetration.<sup>263</sup> This study of 150 children reported the most frequent perpetrators were peers, junkyard owners and local people.

Boys reported that abuse most often occurred in cinemas, parks or the perpetrator's house, while girls reported abuse most often occurring in the home, marketplace or school. Both boys and girls reported extensive molestation in cinemas. The primary method of coercion for boys was monetary bribes or other enticement, while girls more often mentioned the use of physical force.

Perpetrators of sexual abuse on boys were primarily friends, strangers or neighbours, and only 6 per cent of such abuse was perpetrated by family members. Notably, 40 per cent of the boys who reported abuse stated that women were among the perpetrators, and more than one-third of the boys stated that their abusers included other children under 16 years old.<sup>264</sup> In the 2008 study, two-fifths had been abused by other people living on the street, two-fifths by local persons and one-fifth by foreigners. On average, it is notable that approximately 20 per cent of reported abusers of children living on the street were women, predominantly local women. Half of the boys who reported genital fondling reported female abusers. Those who reported receiving oral sex from abusers reported women as frequently as men. One-fifth of those reporting penetration by any means reported female abusers.<sup>265</sup>

Data on sexual abuse in schools in Nepal are lacking. The CWIN 2005 study found that approximately 12.5 per cent of boys who reported molestation identified schools as one place of abuse, and one-fifth of those who reported genital fondling or oral or penetrative sex included schools among the places of abuse. However, this study did not disaggregate the specific forms of abuse by location of the abuse and did not clarify the incidence of abuse by teachers/staff versus other students.

There are no formal data covering sexual abuse in boarding homes, night shelters or other residential care facilities for boys. Similarly, data regarding sexual abuse of boys in the workplace are lacking. In the CWIN 2005 study, 10 per cent of boys included "place related to domestic or other work" among the places of both molestation and contact forms of abuse. However, as many of the respondents were school-going children, this does not give a clear indication of abuse prevalence in the workplace. Although informal reports showed some incidence of rape and sexual abuse of girls and women during the conflict, by both government and Maoist soldiers, the incidence of sexual abuse of boys has not been recorded.

#### ***6.1.4 Sexual exploitation in pornography***

Of the children studied by CWIN, more than one-quarter had been exposed to pornographic materials, primarily through magazines or movies. Of these children, more than one-third of

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<sup>263</sup> Child Protection Centers and Services and Voice of Children, 2008, 'The abuse of street children in Kathmandu'.

<sup>264</sup> Child Workers in Nepal and UNICEF, 2005, op.cit.

<sup>265</sup> Child Protection Centers and Services and Voice of Children, 2008, op.cit.

the boys and one-quarter of the girls had accessed pornography through the Internet.<sup>266</sup> Among boys living on the street in Kathmandu, over two-thirds had been exposed to pornography by others. While the offenders were primarily male, a notable one-quarter of the offenders were female.

### **6.1.5 Other forms of sexual exploitation**

#### *6.1.5.1 Prostitution*

Historically, Nepal has had no designated brothel areas, with the exception of a short-lived red-light district in the city of Nepalgunj, which was removed under public pressure in the late 1990s. Until approximately 2003, prostitution, whether by males or females, was covert, and sex access points were restricted to parks, tea stalls, roadside halts, small hotels and other informal venues. In recent years, Nepal has seen a rapid growth in public sex access points, in the form of dance bars, massage parlours and ‘cabin restaurants’ (venues in which patrons are seated in private cubicles with their companions). These access points have spread throughout the country, though they are concentrated in the Kathmandu Valley, and openly advertise the availability of female companionship through signboards and distinctive coloured lights. While it cannot be said that all females working in these venues are sex workers, the availability of commercial sexual services is unquestioned.

In 2005 researchers estimated approximately 7,000 to 8,000 female sex workers in the Kathmandu Valley, mostly accessing clients through dance bars and cabin restaurants and over mobile phones.<sup>267</sup> In addition, ‘massage parlours’, which primarily provide oral sex for local clients, have multiplied throughout the valley. The proportion of children in these establishments is unknown but is considered to be rapidly growing.<sup>268</sup> Few of the venues are intended to provide clients with the sexual services of men and boys, although some massage parlours have male workers, and some bars in the tourist areas of Kathmandu are frequented by child and adult male prostitutes. Generally, sexual exploitation of boys through prostitution is conducted by informal personal contact on the street, in parks, in hotels, through friends or through pimps, who include taxi drivers, rickshaw drivers and hotel and restaurant employees. As in other countries of South Asia, restaurants, bars and public areas adjoining bus parks are primary sex access points for boys being exploited through prostitution, with nearby small hotels providing rooms for sexual congress.

#### *6.1.5.2 Exploitation in travel and tourism*

Until the recent advent of open commercial sex access points, the sexual exploitation of children in travel and tourism was through the following means. Informally, men from India for years have frequented the Kathmandu Valley and the tourist centre of Pokhara for the sexual services of adult women, as an adjunct to business, tourism and religious pilgrimage. Female sex workers have long been a fixture of the small hotels, restaurants and pathways

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<sup>266</sup> Child Workers in Nepal and UNICEF, 2005, ‘Violence against children in Nepal: Child sexual abuse in Nepal: Children’s perspectives’.

<sup>267</sup> UNAIDS, 2006, ‘UNGASS national report: Nepal 2005’.

<sup>268</sup> World Education International Nepal, 2008, personal communication.

near the famous temple of Pashupatinath in Kathmandu. However, there is little evidence that Indian tourists have sought out children, either male or female.

Western visitors have come to Nepal in relatively small numbers seeking children as well as young adult males.<sup>269</sup> Few Western visitors presently come to Nepal for adult female sex workers, although this appears to be growing.<sup>270</sup> Research indicates that sexual exploitation of children in tourism by Westerners is primarily directed at boys rather than girls.<sup>271</sup> Short-stay Western tourists, both male and female, seek sexual favours primarily from children of the street, restaurant workers and young ‘tour guides’.<sup>272</sup> However, research indicates that foreign exploiters are not the primary abusers, nor are the abusers predominantly male, contrary to popular belief. The 2008 study of abuse of children living on the street in Kathmandu found that approximately one-fifth of the abuse of boys was perpetrated by foreigners, of whom 40 per cent were female.<sup>273</sup>

Some Western visitors have attempted more organized child sexual abuse, primarily of boys, by establishing ‘orphanages’ and ‘children’s homes’. Many of these Westerners are systematic abusers who have abused children in other countries and have come to Nepal due to the laxity of police surveillance. However, there are indications that sexual and physical abuse of children are prevalent in orphanages and children’s homes operated by nationals throughout the country.<sup>274</sup> Despite immense media focus, the abuse by Westerners in institutional settings is likely far less than abuse by local persons.

Today, organized tourism for sexual exploitation appears to be a growing industry in Nepal, primarily for clients from India. In 2007, the Nepal Tourism Board advertised ‘Wild Stag Weekends’ on its website, promoting engagement with female entertainers as well as gambling and sightseeing (this advertisement has since been removed). The present number of tourists coming to Nepal for sexual exploitation is unknown.

### *6.1.5.3 Trafficking for sexual exploitation*

Until recently, Nepal’s primary trafficking concern was cross-border trafficking. Women and girls have been trafficked from Nepal to India since the 1950s or earlier, but the number of persons trafficked to India annually for sexual exploitation is unknown. Many girls and women are currently being trafficked from Nepal to the Middle East, often via India, on the pretense of legitimate employment. The number of those who end up in prostitution is unknown – some are directly trafficked into prostitution, and many others are placed in work

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<sup>269</sup> ECPAT International, 2003, ‘A situational analysis of child sex tourism in India, Nepal and Sri Lanka’.

<sup>270</sup> For example, refer to the Internet site World Sex Guide, [www.worldsexguide.com/guide/Asia/Nepal/index.htm](http://www.worldsexguide.com/guide/Asia/Nepal/index.htm).

<sup>271</sup> Child Workers in Nepal and ECPAT International, 2003, ‘A situational analysis of child sex tourism in Nepal (Kathmandu Valley and Pokhara)’.

<sup>272</sup> Ibid.

<sup>273</sup> Child Protection Centers and Services and Voice of Children, 2008, ‘The abuse of street children in Kathmandu’.

<sup>274</sup> Terre des hommes (Lausanne) and UNICEF, 2008, ‘Adopting the rights of the child: A study on intercountry adoption and its influence on child protection in Nepal’.

situations such as domestic labour in which they are sexually or physically abused; they enter prostitution after leaving employment.

The circumstances and number of boys trafficked out of Nepal for sexual exploitation are even less known. Few boys appear to be directly trafficked into situations of sexual exploitation. A recent study on the cross-border trafficking of Nepalese boys, while listing sexual exploitation through prostitution as a possible outcome, provided no data regarding that outcome.<sup>275</sup> At the same time, informal evidence indicates that some boys are being trafficked from Nepal to Indian cities for labour in restaurants and tea stalls, with traffickers/purchasers having the additional intent to exploit these boys through prostitution arranged from those labour venues.<sup>276</sup>

The armed conflict in Nepal has resulted in many thousands of boys and young men migrating to India, in part to flee recruitment or harassment by the opposing military forces. Today, thousands of young Nepalese males work in hotels, restaurants and other public venues in all the major Indian cities. This large migration of boys has likely resulted in sexual abuse and exploitation, though it remains to be formally verified.

Today, the primary trafficking concern in Nepal is internal trafficking. The rapid growth of public sex access points and the brothels and short-time hotels that accompany them has stimulated a demand for many new girls and women for the sex industry. While some of these persons enter sex work knowingly and voluntarily, a large proportion are trafficked into the industry. Sometimes they are held in thrall through debt obligation from 'advances' to parents on promised 'honest' employment and provision of food, lodging and amenities to the child.<sup>277</sup> Research indicates that one-third of the females in dance bars, brothels and cabin restaurants are children<sup>278</sup> and that the age of children being trafficked locally has significantly decreased in the last several years.<sup>279</sup>

For boys, trafficking is likely not the primary mechanism for direct entry into prostitution, whether inside or outside Nepal. It also appears that boys are seldom physically or psychologically coerced into entering prostitution within the country, with the exception of boys who are forced into it from a workplace or while residing in an orphanage or children's home. Data on the scale of this sexual exploitation are lacking.

## **6.2 Legislation**

The Government of Nepal has ratified the Convention on the Rights of the Child; the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; ILO Convention 182 on the Worst Forms of Child Labour; and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. It adopted

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<sup>275</sup> International Labour Organization and Women Rehabilitation Centre, 2002, 'Cross border trafficking of boys'.

<sup>276</sup> World Education International Nepal, 2008, personal communication.

<sup>277</sup> World Education International Nepal, 2008, Personal communication.

<sup>278</sup> Shakti Samuha, 2008, 'A study on the condition of slavery among women and girls employed in the restaurants and massage parlours of Kathmandu Valley'.

<sup>279</sup> World Education International Nepal, 2008, personal communication.

the Stockholm Declaration and Agenda for Action in 1996 and reaffirmed its commitment in Yokohama in 2001. It has not signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). Under the Nepal Treaty Act 1991, the country adopted a system whereby international treaties ratified by Nepal automatically become domestic law, and in the case of conflict with domestic law, these treaties take precedence.<sup>280</sup> In practice, however, the judiciary has not always applied international standards to domestic cases.<sup>281</sup>

Legislation addressing the sexual exploitation and non-commercial sexual abuse of children includes the Interim Constitution of Nepal 2007; Country Code of Nepal (Muluki Ain) 1963 and subsequent amendments; Human Trafficking and Transportation (Control) Act 2007; Children's Act 1992; Open Border Agreement 1950; Some Public (Offences and Penalties) Act 1970; and Electronic Transaction Ordinance 2005.

Regarding application of legislation to the sexual abuse and sexual exploitation of boys, the Country Code 1963 focuses on girls, but this was somewhat balanced by the 11th Amendment in 2002. In general the legislation lacks recognition of the sexual exploitation of boys.<sup>282</sup>

### **6.2.1 Definition of a child**

The legal definition of a child is inconsistent in Nepalese law. While article 2(1a) of the Children's Act 2048 (1992)<sup>283</sup> defines a child as "...every human being below the age of 16 years", the Human Trafficking and Transportation (Control) Act (2007) 2064<sup>284</sup> Part 1(2d) defines a child as "...children who have not reached the age of eighteen". The Country Code states the age of marriage as 18 years for males and 16 years for females, although the age of consent for sexual activity is 16 years for both. The age of criminal liability, as per the Children's Act 2048 (1992), is 10 years, with reduced punishment allowed for children below the age of 16 (half the penalty) and additional reduction for children under the age of 14. This follows from article 2(11) of the Children's Act 2048 (1992).

### **6.2.2 Sexual abuse**

Overall, legislation in Nepal lacks mechanisms to address child sexual abuse, particularly of boys. The Children's Act 1992 is silent on the subject of sexual abuse of children. However, an amendment to the Children's Act proposed by the Central Child Welfare Board of the Ministry of Women, Children and Social Welfare would provide a definition of sexual exploitation and abuse that, though incomplete, would include 'a sexual relationship with children (natural or unnatural)', showing a child pornographic materials, and touching or

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<sup>280</sup> ECPAT and Plan International, 2004, 'Report on laws and legal procedures concerning the commercial sexual exploitation of children in Nepal'.

<sup>281</sup> UNICEF Innocenti Research Centre, 2009, 'South Asia in action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region'.

<sup>282</sup> UNICEF Innocenti Research Centre, 2009, 'South Asia in action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region'.

<sup>283</sup> <[www.cwin.org.np/resources/documents/children\\_act.htm](http://www.cwin.org.np/resources/documents/children_act.htm)>, accessed on 16 March 2010.

<sup>284</sup> <[www.ksl.edu.np/cpanel/pics/trafficking\\_act\\_2064.pdf](http://www.ksl.edu.np/cpanel/pics/trafficking_act_2064.pdf)>, accessed on 16 March 2010.

fondling.<sup>285</sup> While an ‘unnatural’ sexual relationship could perhaps be construed to include anal and oral sex, the definition does not include sexual harassment, indecent touching, showing children pornographic material, using indecent sexually explicit language towards a child, or indecent exposure by the child or perpetrator.

Other legal provisions address sex with children, rape, sexual molestation and incest. In the Country Code, sex with a minor (under the age of 16) is defined as ‘unnatural sexual intercourse’ and is treated as an aggravated form of statutory rape. Sexual molestation (touching any part of a female body) ‘with intent to commit intercourse’ applies to females above the age of 11 years. It does not address boys; nor does it address girls age 11 or younger.

Presumably, a man who rapes a boy through anal intercourse could be punished under the Civil Code provision on sodomy. Intended primarily to prohibit sex with animals, it does not directly mention anal intercourse but forbids ‘unnatural sexual acts’. It is questionable whether this provision could be applied to oral sex, masturbation or most other aspects of child sexual abuse. However, in practice this provision has been used to punish males for consensual sex. It is thought that many boy victims of rape refuse to report their abuse due to fear of being treated as criminals rather than victims.<sup>286</sup>

Present law requires incidents of sexual abuse to be reported and filed within 35 days of occurrence. This is a significant deterrent to addressing the issue, as many cases are only reported by children after considerable time, sometimes with the assistance of a counsellor. The 35-day period is also usually insufficient for police to collect satisfactory evidence to file a case against the alleged perpetrator.

### **6.2.3 Sexual exploitation in pornography**

The three laws that address child pornography (the Children’s Act, the Some Public [Offences and Penalties] Act 1974 and the Electronic Transaction Ordinance 2005) do not specifically define or prohibit child pornography. Definitions and prohibitions primarily focus on protecting the public from exposure to obscenity; they do not address or penalize sexual abuse inflicted upon a child through the production of pornographic materials. As well, the legislation is limited to production of pornographic materials; it does not include live pornographic displays, grooming and sexual chat rooms, etc.

The Children’s Act 2048 (1992), article 2(16) prohibits taking, distributing or exhibiting photographs for the purpose of “engaging a Child in immoral profession”.<sup>287</sup> Additional penalties are imposed if there has been ‘damage to the child’s character’ or the child’s health. The Some Public (Offences and Penalties) Act 1970 adds little to the protection of children. It prohibits public obscenity and printing, publishing, exhibiting or selling obscene materials,

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<sup>285</sup> Central Child Welfare Board, Ministry of Women, Children and Social Welfare, Government of Nepal, 2007, unpublished draft of proposed bill to amend the Children’s Act.

<sup>286</sup> ECPAT International and Child Workers in Nepal, 2008 (unpublished draft), ‘Out of the dark: The emergence of boys’ prostitution in Nepal’.

<sup>287</sup> Children’s Act 1992.

but it neither defines pornography nor addresses the abuse of children in the production of child pornographic materials. The Electronic Transaction Ordinance 2005 expands the limited scope of the previous two acts by prohibiting publication of pornography on electronic media. Again, pornography is not defined, the prohibition is limited to materials that offend ‘public morality and decency’ and the impact on the child is not taken into consideration.<sup>288</sup>

The recently proposed amendment to the Children’s Act by the Central Child Welfare Board attempts to add substance to legislation on pornography by including child sexual abusive images in its definition of sexual exploitation and abuse:

...taking unnatural photos, publishing or distributing pornographic photos in electronic media...and showing pornographic material by means of deception, force, or any other influence, including fear, threat or making the child unconscious, or by giving or not giving money or other goods.<sup>289</sup>

#### **6.2.4 Other forms of sexual exploitation**

##### *6.2.4.1 Prostitution*

The strength of the laws to address sexual exploitation is limited by inadequate definition of terms. For ‘prostitution’, the Nepal Children’s Act uses the vague term ‘immoral profession’, and the Human Trafficking and Transportation (Control) Act 2007 (HTTA) has no definition for the word. The HTTA, Part 1(2e) defines ‘exploitation’ as “... an act of keeping human beings as slave and bonded and this word also implies to remove human organ except otherwise determined by existing law”<sup>290</sup>, thus eliminating many forms of sexual exploitation.

Exploitation of children through prostitution is not expressly prohibited in Nepalese law. Instead it is addressed through laws against trafficking in human beings in the HTTA, laws regarding rape in the Country Code and general laws protecting children’s rights. Nepal’s laws do not specifically prohibit the ‘voluntary’ prostitution of adults per se. At the same time, they do not indicate that children, due to their age, cannot be considered to ‘voluntarily’ engage in prostitution. Under the section on rape in the Country Code, sexual intercourse with a girl under the age of 16 is considered rape. The 1963 Country Code did not directly address the rape of boys, although this was addressed in a subsequent amendment that penalized rape of persons above the age of 16 and removed the gender distinction.<sup>291</sup> However, this law does not protect children aged 16 to 18 who are commercially sexually exploited from being considered ‘voluntary’ prostitutes.

The HTTA is primarily intended to address the trafficking of adult women into prostitution. The law emphasizes ‘trafficking’ and ‘transportation’ of victims rather than their sexual exploitation. In the HTTA, enforced prostitution is one of several disparate acts by which a

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<sup>288</sup> Electronic Transaction Ordinance 2004.

<sup>289</sup> Central Child Welfare Board, Ministry of Women, Children and Social Welfare, Government of Nepal, 2007, unpublished draft of proposed bill to amend the Children’s Act.

<sup>290</sup> Human Trafficking and Transportation (Control) Act 2007.

<sup>291</sup> 11<sup>th</sup> Amendment to the Country Code of Nepal (Muluki Ain) 1963.



person “shall be deemed to have committed trafficking in persons”.<sup>292</sup> Others include selling or buying a person, causing to be engaged in prostitution, removing human organs and having sexual intercourse with a prostitute. This follows from Part 2.4 (a) (b) (c) (d) of the Act. Though the HTTA lacks a gender focus on girls as opposed to boys, it does not directly mention the prostitution of children. Engaging children in prostitution is only addressed in section 15 on punishment, which imposes a greater sentence for trafficking children.

This lack of definition and clarity on the scope of child prostitution, coupled with the dependence of police and prosecutors on laws regarding trafficking and rape, allows situations of boy sexual exploitation to go unaddressed. For example, the legislation does not address restaurant employers or institutional attendants who ‘rent’ boys to clients or foreign sex abusers who provide boys with shelter, clothing and schooling in exchange for sexual services. In addition, the legislation results in the double victimization of children. As police have no clear guidelines for filing child prostitution offences, both boys and girls who are forced into prostitution are often arrested under the Some Public (Offences and Penalties) Act 1970 (‘engaging in obscene acts in a public place’).<sup>293</sup> Boys in particular may be arrested under the sodomy laws of the Country Code, which punishes persons for the undefined offence ‘unnatural sexual acts’.<sup>294</sup>

#### *6.2.4.2 Exploitation in travel and tourism*

No legislation in Nepal directly addresses sexual exploitation of children in travel and tourism, nor does the country have any extraterritorial agreements with other countries for the prosecution of internationals who abuse Nepalese children.

#### *6.2.4.3 Trafficking for sexual exploitation*

Human trafficking is primarily addressed through the HTTA 2007, which repealed the Human Trafficking (Control) Act 1986. The HTTA supersedes but is still complemented by provisions of the Country Code, including those addressing the removal of a person under 16 from his/her lawful guardian or parents, taking a person out of the country with intention of sale and prohibition of slavery.<sup>295</sup>

The HTTA reflects longstanding concern in Nepal with the trafficking of girls and women to India, and the relative lack of concern about sexual exploitation of children through prostitution as well as trafficking within the country. The HTTA also emphasizes punishment of the trafficker/transporter rather than the long-term exploiter, whether brothel owner or sex abuser. The penalty for the trafficker (transporter) is twice as high as for the person who receives the person for prostitution. In addition, the punishment for taking a person to another country is approximately twice that of taking a person from one place to another in Nepal. This follows from Part 4 (15) of the HTTA. Thus, punitive measures inadequately address sexual exploitation of boys through prostitution, because the mechanism of boys’ entry into

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<sup>292</sup> Human Trafficking and Transportation (Control) Act 2007.

<sup>293</sup> Some Public (Offences and Penalties) Act 1970.

<sup>294</sup> Country Code of Nepal (Muluki Ain) 1963.

<sup>295</sup> Country Code of Nepal (Muluki Ain) 1963.

prostitution is less likely to be long-distance trafficking/transportation and more likely to be personal influence and coercion in a local setting, as is common throughout South Asia.

However, while the HTTA does not provide the needed comprehensive definition of child trafficking as in the Palermo Protocol, it is a significant improvement over previous legislation in better describing the *modus operandi* of causing a child to be engaged in prostitution. The methods according to Part 4(2) (b) of the HTTA include: "... enticement, allurement, misrepresentation, fraud, deception, force, coercion, abduction, taking hostage, taking benefit of vulnerability, making unconscious, abusing post or power or alluring, causing fear, giving threat or coercing the parent or guardian, with the purpose of causing to be engaged in prostitution or exploitation."<sup>296</sup> Although constraints to prosecution remain, this passage could potentially provide better means to address the activities of sex abusers as well as the forced sexual exploitation of boys in the workplace.

The Interim Constitution 2063 (2007) also addresses "trafficking in human beings, slavery or serfdom" in its article 29. Moreover, it is stated in article 22(3) that children shall "have the right against physical, mental or any other form of exploitation".

### **6.3 Policy**

The National Plan of Action against Trafficking of Women and Children for Commercial Sexual Exploitation was developed by the Ministry of Women, Children and Social Welfare in 1998 and revised in 2003 with a view towards improving its implementation.

The mechanisms to implement the NPA include the Central Child Welfare Board, District Child Welfare Boards, a National Human Rights Commission and a National Task Force on Trafficking in Children and Women. Juvenile benches in district courts have been established under law but have yet to come into being.

The NPA includes sections on policy, research and institutional development; legislation and enforcement; awareness creation, advocacy, networking and social mobilization; health and education; income and employment generation; rescue and reintegration; cross-border, regional and international issues; and monitoring and evaluation. The NPA contains most of the basic mechanisms to address trafficking, takes a rights-based approach and seeks to include the participation of children in reviewing the plan and developing programmes.

The primary weaknesses of the plan are its vague strategy, lack of clear mechanisms for implementation and reliance for implementation on district and local task forces that lack the resources, will and mandate to carry out anti-trafficking programmes. In consequence, implementation of the NPA has been ineffective at the district and local levels, and NGOs and bilateral donors have continued to conduct the majority of anti-trafficking interventions.<sup>297</sup> Gaps in legislation are summarized in general terms in the NPA. These are not sufficient to address areas in which children, particularly boys, are not protected by law.

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<sup>296</sup> Human Trafficking and Transportation (Control) Act 2007.

<sup>297</sup> UNICEF Innocenti Research Centre, 2009 'South Asia in action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region'.

The NPA does not address linkages between sexual exploitation and child labour or non-commercial child sexual abuse.

The 10-Year National Plan of Action for Children (2005-2015) amends a number of gaps in the trafficking NPA and is a more detailed, comprehensive document. Its programmes include reviewing legislation with a view towards addressing sexual exploitation, abuse and harassment; reviewing and amending laws regarding the age of children; strengthening the participation of children in policy-making; addressing child labour issues; strengthening monitoring and response to child abuse at the local level; and developing mechanisms to protect children living on the street. However, like the trafficking NPA, this plan of action depends on the government at the district and local levels for implementation and lacks adequate mechanisms for involving community participants.

## **6.4 Programme Responses**

### **6.4.1 Children's participation**

In Nepal, children's views have played an important part in public advocacy against child sexual abuse and exploitation. CWIN, Child Protection Centres and Services Nepal, and other organizations have collected an extensive record of the views of boys and girls about sexual abuse and exploitation and have distributed this information to the public. At a global level, children from Nepal and Bangladesh were central contributors to the child-focused advocacy document '10 Essential Learning Points: Listen and Speak Out against Sexual Abuse of Girls and Boys'.<sup>298</sup>

With the support of the NGO Maiti Nepal and counterpart NGOs in India and Bangladesh, child survivors and young people at risk engage in regional participatory activities, including peer support, community awareness and public advocacy, through the Youth Partnership Project coordinated by ECPAT International.

At the community level, children's participation has been instrumental in responding to sexual abuse and trafficking in some districts of Nepal. With support from Save the Children and NGO partners, numerous child clubs have been formed in rural areas, providing a structure for children to gather for mutual support and to discuss issues of sexual abuse and exploitation. These child clubs have provided boys and girls with the confidence and empowerment to confront abusive situations in their communities and to conduct dialogue on these issues with guardians, teachers, employers and local government officials.

### **6.4.2 Monitoring and data collection**

Until recently, organizations such as CWIN have conducted considerable research, but there has been no regular monitoring of incidents of child sexual abuse and exploitation in Nepal, either by government or NGOs. Recently, due to concern about police treatment of girls and women 'rescued' during raids on dance bars and cabin restaurants, several organizations,

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<sup>298</sup> Save the Children Alliance, 2005, '10 essential learning points: Listen and speak out against sexual abuse of girls and boys' (global submission to the UN Study on Violence against Children).

including Shakti Samuha and Women Rehabilitation Centre, have been monitoring the arrest and imprisonment of girls and women in the Kathmandu Valley. No other regular monitoring of child sexual abuse and exploitation is taking place in the country.

#### **6.4.3 Legislative changes**

Several legal organizations are advocating at senior levels of government to address gaps in legislation on the abuse and exploitation of women and children. These include the Forum for Women, Law and Development, Centre for Legal Research and Resource Development, Legal Aid and Consultancy Centre, and Himalayan Human Rights Monitors. These organizations have primarily focused on strengthening Nepal's legislation to address the issues of violence against women, prostitution and human trafficking, among others. There has been little work to initiate legislation for the protection of children against sexual abuse, with the exception of rape.

#### **6.4.4 Prevention through advocacy and awareness-raising**

A number of NGOs work for the prevention of child sexual abuse and trafficking through advocacy in the community and with government. Child Workers in Nepal advocates for children's rights with a focus on child labour, children on the street, trafficked children, children in conflict with the law and sexual exploitation of children. Established in 1987, CWIN was the first organization in Nepal to address the concerns of boys in addition to girls. It has conducted extensive research and advocacy on boys' issues.

Para-legal committees were originally established in the late 1990s as part of a programme called the 'community surveillance system against trafficking', established by the Centre for Legal Research and Resource Development,<sup>299</sup> and have since spread to many areas of the country. This has proved to be a successful model of community involvement in preventing child sexual abuse and trafficking. In this community-based programme, now supported by UNICEF and other agencies, local action groups are organized to address sexual abuse, violence and trafficking in their villages. The para-legal committees carry out advocacy and awareness-raising activities for prevention and work on early detection of child abuse by networking with health workers, teachers and local facilitators. The focus of the committees on the sexual abuse and exploitation of boys is not known, although they have been known to respond to incidents of boys abducted for military service. The committees are supported by district resource groups, comprised of lawyers, social mobilizers and local government officials. These groups establish, train, monitor and support the village-based para-legal committees.<sup>300</sup>

A network of NGOs based in Kathmandu, the Children at Risk Networking Group, conducts research and disseminates information on child sexual abuse and exploitation. Bal Bikas Samaj, a child rights organization in the city of Biratnagar, conducts awareness-raising

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<sup>299</sup> Sangroula, Y. and Centre for Legal Research and Resource, 2001, 'Trafficking of girls and women in Nepal: Building a community surveillance system for prevention'.

<sup>300</sup> UNICEF Innocenti Research Centre, 2008, 'South Asia in action: Preventing and responding to child trafficking: Child rights-based programme practices'.

programmes on child rights and child sexual abuse through child clubs in rural areas. The Informal Sector Service Centre, a human rights organization focused on legal issues, conducts awareness programmes on child rights and abuse throughout the country.

Children-Women in Social Services and Human Rights conducts a project in the Kathmandu Valley called 'combating silent suffering by children', with the support of Save the Children Norway. Focused primarily on boys and girls in domestic labour, the project carries out public advocacy on sexual abuse issues for children, parents, teachers and employers. It provides information on services for abused children and helps children and parents learn the skills to identify and protect children. As well, the project trains teachers in formal and non-formal education in ways to prevent sexual abuse in schools and homes. The group has also stimulated public awareness of the issues through a column in local newspapers that responds to children's and parents' questions and concerns on sexual abuse.

Several Nepal organizations, including ABC Nepal, Women Rehabilitation Centre, Saathi and Shakti Samuha, conduct extensive awareness-raising and advocacy activities regarding abuse and trafficking at the government, village and general public levels throughout the country. However, their activities are focused on women and girls, and they generally do not address the abuse and exploitation of boys.

#### ***6.4.5 Prevention through outreach to vulnerable boys***

A number of organizations in the Kathmandu Valley seek to prevent or mitigate the abuse of children living on the street and at-risk children through direct outreach, working at the street level to raise awareness among children and equip them with preventive life skills and other forms of support, including HIV/AIDS awareness, safe shelter, nutrition and drug counselling. These NGOs include Sath Sath, CWIN, Voice of Children, Concern Nepal, Child Watabaran Centre, Jagaran Forum Nepal, and Child Protection Centres and Services Nepal. In Pokhara, the Child Welfare Scheme has coordinated the work of several local NGOs in a comprehensive child protection activity that provides awareness and outreach to children living on the street and in slums, with referral to drop-in, vocational training and safe shelter services.

The sexual abuse of boys is also addressed through organizations working with HIV/AIDS. Organizations such as the Blue Diamond Society, General Welfare Pratisthan and the Community Action Centre include awareness and life skills training to resist sexual abuse among other activities to reduce HIV/AIDS transmission among males having sex with males.

#### ***6.4.6 Addressing exploitation in pornography***

Although Nepal now has adequate laws to prosecute the distribution (if not production) of pornography, there have been few initiatives to address the issue. CWIN has conducted some public awareness activities regarding children's exposure to pornography. But there have not yet been any significant interventions by government or NGOs to reduce children's access to

pornography at Internet cafés or ‘blue movie’<sup>301</sup> houses, or to identify and prosecute those who may use Nepalese children in the production of child pornographic materials.

#### ***6.4.7 Addressing exploitation in travel and tourism***

The growing problem of internal trafficking and related sexual exploitation of children in travel and tourism has been insufficiently addressed through either awareness raising, civic dialogue or direct intervention. Some NGOs and bilateral agencies have produced information materials to address internal trafficking, but the impacts of these materials are debatable. While local and international media have published articles/television segments on sexual exploitation in travel and tourism and the growth of the local sex industry, the style has been sensational. Significant violations of children’s rights have occurred in the photography and videotaping of identifiable exploited children, both boys and girls. Several NGOs (who for protection reasons ask to be unnamed) work directly in the dance bars, cabin restaurants and local brothels in an endeavour to remove young children. However, these NGOs are unrecognized and under-funded, and they work at considerable personal risk from local criminals and police who have an investment in the local prostitution industry.

#### ***6.4.8 Responses to sexual abuse and exploitation***

##### *6.4.8.1 Children’s reporting of abuse*

Reporting of child abuse and exploitation is one of the greatest challenges in addressing these issues. Many abused children are alienated by the experience, and feeling shame or fear of reprisal, they may think they have no place to go and no one to talk with for support. Child Helpline, established by CWIN with the assistance of Child Helpline International, provides children with emergency response in cases of sexual abuse and exploitation in the Kathmandu Valley and the cities of Biratnagar and Pokhara.

The Crime Investigation Department of the Nepal Police has established more than 20 women and children service centres in urban areas, as well as 6 along the border. These centres provide teams of female police officers to receive and file complaints and support victims of domestic violence, rape, trafficking and sexual exploitation. Para-legal committees in the community identify and respond to cases, linking victims with support services provided by NGOs and the government.

##### *6.4.8.2 Safe shelter and crisis response*

In Kathmandu, CWIN’s programmes for boys include emergency services, medical care, a socialization centre, psychosocial counselling, a health clinic, night shelters, transit homes for children at risk, a contact centre at the bus park for migrant children at risk, educational support programmes and student hostels. Maiti Nepal has recently opened a living facility for boys, although the boys rarely reveal that they have been sexually abused. Maiti Nepal also provides legal consultants and has worked on around 300 cases requiring litigation

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<sup>301</sup> A term that refers to pornographic films.

The Youth Club in Narayangadh provides a night shelter for disadvantaged children, intercedes in child abuse cases and provides referral to services for abused children and their parents. A network of NGOs based in Kathmandu, the Children at Risk Networking Group, operates two shelters for abused and abandoned children. Bal Bikas Samaj (Children's Rights Group), a child rights organization in the city of Biratnagar, intercedes in child abuse cases and provides legal support and counselling to abused children. The Forum for Human Rights and Environment is a human rights organization that provides counselling and legal aid for male and female victims of sexual abuse, both adults and children, as well as training in reproductive health and awareness programmes on sexual abuse for children and adults.

#### *6.4.8.3 Psychosocial care*

Direct psychological interventions with children to address the effects of sexual abuse and exploitation are limited due to the lack of professionally trained counsellors and conceptual confusion over the term 'counselling'. Most NGOs working with abused children, children living on the street or children affected by conflict profess to conduct 'counselling' and engage 'counsellors', and the need for counselling of children is repeated in the country's policies. However, in Nepal counselling is not identified as a specific, professionally qualified practice, and the term is applied to any activity in which a person interacts with a child to discuss problems. There is limited understanding among NGOs and government and donor agencies on the development and operation of comprehensive psychosocial support systems.<sup>302</sup>

For many years, and due largely to the promotion of counselling by the government and the donor community, short-term orientations in basic psychological issues have been considered adequate training for counsellors. Some schools provide longer-term training, but the instruction is almost entirely theoretical, lacking supervised clinical practice. One organization, Transcultural Psychosocial Organization Nepal (TPO) provides professional counselling training with a high level of clinical supervision of trainees. UNICEF, ILO and other organizations have supported TPO to develop training manuals, strengthen its programme and build human capacity for local organizations. Currently a number of organizations, including CWIN, Maiti Nepal and ABC Nepal, employ counsellors trained by TPO to address the needs of abused and exploited children.

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<sup>302</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

## 7.0 COUNTRY PROFILE: PAKISTAN

### 7.1 Research Findings

#### 7.1.1 Country background

In Pakistan as in many countries of South Asia, the combination of poverty, inadequate education and extensive child labour and child mobility creates a situation that is highly conducive to child sexual abuse and exploitation. Pakistan is diverse in linguistic and cultural identities and in rule of law. The country is composed of four provinces, the Islamabad Capital Territory, Azad Jammu and Kashmir, and two federally administered tribal areas. The tribal areas are essentially autonomous, governed largely by tribal councils and village headmen.

Nearly one-third of the population lives below the poverty line, and almost half of the population are children under 18. The educational system does not address the needs of the great number of children, and Pakistan has a very low literacy rate.<sup>303</sup> School dropout rates are high; in rural areas more than one-third of children do not complete primary school.<sup>304</sup> Instead of attending school many children work, particularly boys – 40 per cent of boys aged 15 to 17 and 17 per cent of boys between 10 and 14 are engaged in labour.<sup>305</sup> The necessity to work takes many of these boys away from their homes, often to cities where they have little, if any, protection. Pakistan hosts more refugees than any country in the world, almost all from Afghanistan, and the vast number of refugees adds to the many thousands of boys living without family protection.<sup>306</sup>

Coupled with these indicators of boys' vulnerability to abuse and exploitation are powerful cultural norms that on one hand deny sexual abuse and exploitation and on the other hand promote it. Particularly in the tribal areas, a high premium is placed on family honour and pride (*izzat*). Socially unacceptable behaviour, including sexual activities outside marriage, is strongly censured and carefully hidden. An unacceptable social act is considered wrong less because of its impact upon the individual than because it is *haram* –it brings shame or dishonour on the family or community. This leads to denial of sexual abuse, and because the integrity of family and community often take priority over the needs and rights of individuals, victims are blamed as well as perpetrators. At the same time, Pakistan's traditional culture puts the highest importance on the purity and protection of women. Male relationships with women outside marriage are strongly discouraged, while social and physical affection

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<sup>303</sup> Among the persons aged 15 years and above, the number is around 54 per cent. This, according to data from the United Nations Development Fund's Human Development Index, available at: <[http://hdrstats.undp.org/en/countries/country\\_fact\\_sheets/cty\\_fs\\_PAK.html](http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_PAK.html)>, accessed on 16 March 2010.

<sup>304</sup> Working Group Against Child Sexual Abuse and Exploitation, and Save the Children Sweden, 2005, 'Commercial sexual exploitation of children: A situation analysis of Pakistan'.

<sup>305</sup> Population Council, Pakistan, 2004, 'Population and poverty: A briefing'.

<sup>306</sup> Working Group Against Child Sexual Abuse and Exploitation, and Save the Children Sweden, 2005, op.cit.



between males is socially tolerated.<sup>307</sup> The association of adult men with boys is not questioned, making boys vulnerable to sexual abuse and exploitation.

### **7.1.2 Knowledge base**

The knowledge base on the sexual abuse and exploitation of boys in Pakistan is relatively comprehensive up to 2009, much research having been conducted in the last three to four years. As with other countries in South Asia, the research has primarily been focused on urban areas, although there has been some research conducted in smaller cities, towns and rural areas of the NWFP and Punjab (referred to below). Pakistan has been fortunate to have strong research skills among its NGOs and NGO associations (including the Pakistan Paediatric Association (PPA), the Pakistan Voluntary Health and Nutrition Association, PILER and Azad Foundation, among others) and has benefited from strong technical support from donor agencies (including Save the Children, ActionAid, ILO and UNICEF). The country has also been fortunate to have conducted a great amount of research on child labour and bonded labour, and thus has a very strong knowledge base in labour exploitation.<sup>308</sup>

In part due to Pakistan NGOs working for many years on social mobilisation at the grassroots level, particularly those addressing the linkages between local, including tribal, social customs and labour, landlessness, violence against women and child development issues, researchers have had notable access to target communities in a social environment that discourages the discussion of sexual abuse and exploitation. At the same time, despite the relative currency and comprehensiveness of the knowledge base, research has been unable to adequately encompass the immense diversity of ethnic and tribal groups. As well, the last several years have seen great impacts on Pakistan from both natural disaster and civil conflict. Researchers and donor agencies are aware that these have likely made significant changes in the situation of the sexual abuse and exploitation of boys, and are presently mobilizing research. However the data are not all in, and await comprehensive analysis.

### **7.1.3 Sexual abuse of boys**

Due to the cultural silence about sexuality, it has been difficult for researchers to estimate the extent of child sexual abuse in Pakistan. Numerous studies have been directed at the issue.<sup>309</sup> Because of limited mechanisms for reporting abuse, many of these studies have depended for data on newspaper reports, police files or confidential reports from children obtained through outreach activities in schools and on the street. The most substantial data on sexual abuse of boys in Pakistan come from research with children living on the street and children being sexually exploited through prostitution.

While little information is available about the abuse of children across the socio-economic spectrum, a study by the Pakistan Voluntary Health and Nutrition Association indicated that

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<sup>307</sup> ECPAT International and Pakistan Paediatrics Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>308</sup> Few of these many studies could be reviewed here due to the limitations of this desk review, but are extensively analysed in a forthcoming study by UNICEF Pakistan and Frederick, J. provisionally titled 'Situation analysis of child trafficking and exploitation in Pakistan'.

<sup>309</sup> Refer to Bibliography.

sexual abuse affects girls more than boys – 19 per cent of girls versus 14 per cent of boys.<sup>310</sup> A 1998 study using data drawn from newspaper reports indicated an approximate 2:1 ratio of girls abused to boys abused.<sup>311</sup> The report showed that boys and girls were almost equally vulnerable up to age 15, but boys in the 15-to-18 age group were significantly less vulnerable than girls. A 2001 seminal study in the four provinces and the federally administered territories collected qualitative primary data from 233 children using semi-structured and unstructured interview techniques. It found that girls were more likely to be sexually abused by family members, acquaintances and neighbours, while boys were more at risk from teachers and strangers.<sup>312</sup>

Reporting of incest is low in Pakistan because of the taboo against discussion of matters that might injure family dignity. In the sexual abuse cases monitored by the NGO Sahil in 1997, six per cent involved incest.<sup>313</sup> The NGO Rozan analysed a random sample of 100 confidential letters from victims and survivors of child sexual abuse. Nearly half were incest cases, and one third of the victims were boys. The average age of children at the onset of sexual abuse in the family was 6 to 8 years. One-third of the perpetrators were older cousins, nearly as many were uncles and one-fifth were brothers. Notably, 10 per cent of the perpetrators were female.<sup>314</sup>

While some data indicate a slightly higher prevalence of sexual abuse of girls than boys in Pakistan, these data need to be confirmed by further research. The term ‘homosexuality’ as understood in the West does not easily encompass the wide range of masculinities, gender identities, sexual behaviours, partner choices and perceived sexual needs of men in South Asia. As mentioned earlier in this section, the cultural acceptance of man-boy personal relationships provides opportunity for extensive sexual abuse, and this situation is not denied among informants. In a study conducted by the Pakistan Paediatrics Association in Lahore and Peshawar, even respected community leaders did not deny the prevalence of homosexual activities between men and boys. They stated that while it is disgraceful to be a passive (receptive) partner in a homosexual relationship, it is a matter of male power and pride to be an active (insertive) partner.<sup>315</sup>

In an unpublished study conducted in the North-West Frontier Provinces (NWFP) with approximately 14 focus groups of village leaders and influential men, 23 per cent of informants considered sex with young boys a matter of pride, 14 per cent considered it a symbol of status and 11 per cent did not consider it bad. In the view of many persons in the more conservative tribal areas of Pakistan, adolescent boys are not considered men until they marry. Before that, they are ‘beardless youth’ and are considered sexually available to other

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<sup>310</sup> Pakistan Voluntary Health and Nutrition Association, 2000, ‘Adolescent reproductive and sexual health: An exploration of trends in Pakistan’.

<sup>311</sup> Sahil, 1998, ‘Child sexual abuse and exploitation in Pakistan’.

<sup>312</sup> UNESCAP and NCCWD, 2001, ‘Sexually abused and sexually exploited children and youth in Pakistan: A qualitative assessment of their health needs and available services in selected provinces’.

<sup>313</sup> Sahil, 1998, ‘Child sexual abuse and exploitation in Pakistan’.

<sup>314</sup> Aangan, 1998, ‘Study on incest and child sexual abuse’.

<sup>315</sup> ECPAT International and Pakistan Paediatrics Association, 2006, ‘Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)’.

men. Boys cannot get pregnant and are not seen to be seriously psychologically or physically affected by sexual abuse.<sup>316</sup>

While data on the sexual abuse of boys in the home are incomplete, it has been shown that schools, *madrassahs*<sup>317</sup> and the workplace are all vulnerable situations for boys. Concern about abuse of boys in schools was raised following scandals in 2003-2004 in a boys' boarding school in Peshawar. The incident resulted in discussion of the problem at the National Consultation on Child Sexual Abuse and Exploitation in 2003, organized by the PPA and Save the Children Sweden, as well as on local television channels. In a recent study, community leaders and adolescent boys said openly that schools are not safe and that teachers threaten or blackmail boys into sexual abuse and fine or discipline them if they refuse.<sup>318</sup>

Among the many Pakistani boys who work away from their homes, many are at risk of sexual abuse. As elsewhere in South Asia, children living on the street likely have the highest rate of sexual abuse of any vulnerable group of boys. These children have no mechanisms of protection except their peers and, in some cases, local gangs. They are highly visible and, particularly the youngest, highly vulnerable to the sexual and physical aggression of thugs, shop owners, police and other men and boys in the community. Children living on the street become involved in 'survival sex', providing sexual services to protect themselves from greater abuse, gain physical protection from gangs and older peers, and obtain food and shelter.

Estimates of the incidence of sexual abuse of boys living on the street vary, but all are high. A study in Lahore showed that 80 per cent had experienced commercial or forced sexual contact. More than one-half had been gang raped.<sup>319</sup> A study of knowledge, attitude, behaviour and practices of 503 children living on the street in Karachi found that 63 per cent had been sexually abused, and of those nearly three-quarters had been victims of gang rape.<sup>320</sup>

All studies of children being sexually exploited in prostitution showed a high rate of previous sexual abuse, most often in connection with street living and then in the workplace. Nearly one-sixth of boys in Pakistan aged 10 to 14 are working, and many of them depend almost entirely on their employers for food, shelter and income. Given the existing scope for man-boy sexual relationships, this power in the hands of employers is conducive to demanding sexual favours from the child as an additional service. In some labour situations, such as boys who work as helpers, or *kailashis*, for truck drivers, sexual services are considered part of the

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<sup>316</sup> Save the Children Sweden-Denmark (Slugget, C), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>317</sup> *Madrassahs* are Islamic religious schools. The *madrassahs* fill a gap in Pakistan's weak educational system, providing free education, religious teachings, lodging and board to children from impoverished families.

<sup>318</sup> ECPAT International and Pakistan Paediatrics Association, 2006, op.cit.

<sup>319</sup> Ali, A. et al., 2002, 'Geographic and social mapping of sexual practices among street children', presented at 3<sup>rd</sup> annual Population Research Conference, 19-21 December 2002, Islamabad.

<sup>320</sup> Pakistan Voluntary Health and Nutrition Association and Azad Foundation, 2004, 'KABPS study for street children in Karachi'.

job.<sup>321</sup> In a survey of truckers, more than one-half reported having sex with a man or boy, one-third with a female sex worker and 11 per cent with a *hijra*.<sup>322</sup>

Prisons in Pakistan are also a major venue for sexual abuse of boys. As of 2003, the country had only two juvenile jails, and although law dictates that children should be incarcerated separately from adults, many children are placed in adult prisons. There they experience sexual abuse and face the risk of sexually transmitted infections.<sup>323</sup> Prison survey reports as well as NGO research indicate that boys are routinely sexually abused by both inmates and staff.<sup>324</sup> In 2000, during an investigation following a mutiny at Hyderabad Jail, the Army rescued 50 juvenile prisoners who had been sexually abused and placed them in juvenile detention facilities.<sup>325</sup>

Like Afghanistan, Pakistan has accepted cultural precedents for man-boy sexual relationships, known as *bacha baazi*. In these relationships, men of wealth and influence, including political, business and military leaders, take on a 'mistress' in the form of a 'beardless youth'. The boys, usually drawn from impoverished families, are selected for their beauty and are considered to be a matter of pride to their owners. This is most prevalent in the tribal areas of the NWFP, but it exists less formally throughout the country. The city of Banu in the NWFP is famous as a place where men seek attractive boys for concubinage. Here, at certain times of the year, boys dress in pale lavender gowns and parade through the town, hoping to attract a patron.<sup>326</sup> Often the boys are well provided with food, clothing and sometimes money by the masters, and are sometimes supported even after they reach puberty and are replaced by a younger boy. The tradition is well known and accepted in the NWFP, although it is formally disapproved of. In the view of local men, *bacha baazi* relationships are not considered to be prostitution because the boys offer sexual services to only one man as opposed to selling sex to any man who is prepared to pay.<sup>327</sup>

#### **7.1.4 Sexual exploitation in pornography**

The exposure of children, particularly boys, to pornography is ubiquitous throughout the urban and semi-urban areas of the country. Internet cafés abound in markets, shopping plazas and residential areas. In many, computer workstations are enclosed in small private cubicles. Groups of boys pool their funds to purchase computer time, with which they download pornographic pictures and movies, or watch blue movies on DVDs or VCDs. A study of Internet cafés conducted by the PPA and Save the Children Sweden in 2001 found that 20 per cent of the users are children and that 80 per cent of them were exposed to pornography.<sup>328</sup>

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<sup>321</sup> Hussain, A., 2000, 'Nowhere to hide'. In Frederick, J. (ed). 'Fallen Angels: The sex workers of South Asia'.

<sup>322</sup> Policy Project, 2003, 'Adolescent and youth reproductive health in Pakistan: Status, policies, programmes and issues'.

<sup>323</sup> Ibid.

<sup>324</sup> Sahil, 1998, 'Child sexual abuse and exploitation in Pakistan'.

<sup>325</sup> SPARC Newsletter, Issue No. 24, September 2000.

<sup>326</sup> Haber, D., 1998, 'The pleasure boys of Pakistan's northwest frontier' (unpublished manuscript).

<sup>327</sup> ECPAT International and Pakistan Paediatrics Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>328</sup> Pakistan Paediatric Association and Save the Children Sweden, 2001, 'Exposure of children to pornography at the Internet cafés'.

The extent to which children are approached by predators in chat rooms or asked to expose their bodies on webcams is not known. There is one substantiated report, by the NGO War Against Rape, of Pakistani children being used in the production of child pornographic materials.

### **7.1.5 Other forms of sexual exploitation**

#### *7.1.5.1 Prostitution*

Sexual exploitation of boys through prostitution is ubiquitous and highly visible in urban areas of Pakistan. The cultural seclusion of women and girls applies to female prostitutes as well; thus female street prostitutes are few, and the majority of female sex workers are secluded in brothels. The number of male and female children working in prostitution in Pakistan's urban areas is unknown, but the number of boys may be higher. Boys can more easily access clients, cultural norms do not discourage men from having sex with boys, and male prostitutes are considered cheaper than females.

The sources of boys for prostitution in Pakistan are similar to those throughout South Asia. Few are trafficked into prostitution. Most are runaways or children living on the street who sell sex to meet basic needs. The link between sexual abuse and sexual exploitation, unclear in most governmental policy and planning in South Asia, is clearly indicated in a number of studies. They indicate that the majority of boys working in prostitution in Pakistan have been previously sexually abused.<sup>329</sup> The average age at entry into prostitution ranged from 12 to 15 years.<sup>330</sup> In urban areas, boys most frequently ply the trade at bus stands and terminals (52 per cent) and at hotels and restaurants (23 per cent); the remainder at cinemas, video shops and public parks.<sup>331</sup>

A study of boys working in prostitution in Lahore and Peshawar found that most came from poor rural and semi-urban families, in which the primary male caregivers were dead, unemployed or underemployed. In addition to leaving home due to poverty and the quest for employment, an estimated 80 per cent of the boys in the study had suffered emotional or physical abuse at home. Most cited this as the primary reason for leaving. The country's inadequate educational system was also noted as a factor. Almost all of the boys were either illiterate or school dropouts. Many of the latter said they dropped out because of corporal punishment and humiliation in school.<sup>332</sup>

While poverty, broken family safety nets, inadequate education and physical and emotional abuse in the home make boys vulnerable, additional factors lead them into prostitution. Boys enter commercial sex not only for food, money and lodging, but also because of violence,

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<sup>329</sup> Working Group Against Child Sexual Abuse and Exploitation, and Save the Children Sweden, 2005, 'Commercial sexual exploitation of children: A situation analysis of Pakistan'; ECPAT International and Pakistan Paediatrics Association, 2006, op.cit.

<sup>330</sup> UNESCAP and NCCWD, 2001, 'Sexually abused and sexually exploited children and youth in Pakistan: A qualitative assessment of their health needs and available services in selected provinces'.

<sup>331</sup> ECPAT International and Pakistan Paediatrics Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>332</sup> Ibid.

threats and peer pressure. Many are victims of those who should protect them, including family, friends and employers. A study supported by the United Nations Economic Commission for Asia and the Pacific (UNESCAP) found that more than one-third of the children were pushed into prostitution by their families. The next most common factor was the influence or coercion of 'friends'.<sup>333</sup>

Child labour is also clearly linked to the sexual exploitation of boys through prostitution in Pakistan. In urban and semi-urban areas, primary venues for the sale of boys are workplaces, particularly bus terminals, tea shops and small hotels. Boys working in these locations usually eat and sleep on the premises, making them vulnerable to sexual abuse by shop owners and customers. The shop owner may also sell the child to customers for sexual services. A study has noted that coercion by shop owners is a primary means by which boys enter prostitution.<sup>334</sup> Boys also work at rest stops and hotels for truckers and bus drivers along the main highways, such as the Grand Trunk Road and the Indus Highway. Little is known about sexual exploitation of boys through prostitution in rural areas and small towns.

Working as a professional masseurs, or *malishia*, is another occupation in which boys conduct commercial sex. Most *malishia* are adult men, although they take boys as apprentices. Boys usually start in the trade between 13 and 15 years of age. While many conduct only massage, some conduct sexual activities, primarily masturbation of the client. The *malishia* earn relatively good incomes and have regular clients, servicing them in hotels and private homes.<sup>335</sup>

Bus terminals and their environs are also one of the primary sites of prostitution of boys in Pakistan. Bus terminals typically house numerous small legal and illegal businesses. The Pir Wadhai bus terminal in Rawalpindi is a sprawling complex containing tea shops, hotels, restaurants, bus stands and auto workshops, as well as a post office, bank and mosque. Here, children who are living on the street congregate, doing odd jobs such as working in tea shops and cleaning buses. Pir Wadhai is a venue for child exploitation through prostitution, with numerous pimps and dingy hotels providing rooms for servicing both male and female clients. Women and girls are hidden but are available on demand. Staff and owners of small hotels, inns and workshops come for sex with the boys, or to pick up children for hotel guests.

Older, wealthier men come to the terminal seeking sexual partners, often taking boys away in their cars. They pay them in money, tobacco or hashish. Police, too, are part of the bus terminal community, sometimes conducting raids, but also sexually abusing the boys and receiving contributions from those who pimp them.<sup>336</sup> Here, boys also make assignments with bus and truck drivers, many of whom keep them on a semi-permanent basis as cleaners and helpers and for sexual purposes, in exchange for food.<sup>337</sup>

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<sup>333</sup> UNESCAP and NCCWD, 2001, 'Sexually abused and sexually exploited children and youth in Pakistan: A qualitative assessment of their health needs and available services in selected provinces'.

<sup>334</sup> Ibid.

<sup>335</sup> Frederick, J. (ed.), 2000, 'Fallen Angels: The sex workers of South Asia'.

<sup>336</sup> Sahil, 2004, 'The other side of childhood: Male child prostitution at a bus stand in Pakistan'.

<sup>337</sup> Hussain, A., 2000, 'Nowhere to Hide' In Frederick, J. (ed). 'Fallen Angels: The sex workers of South Asia'.

Children living on the street the world over are easy victims, and in Pakistan many support themselves through prostitution. Of the 503 children (495 boys) living on the street who were interviewed for a 2004 study, more than half had been victims of sexual abuse. Three-quarters of the children interviewed reported the onset of sexual practice before the age of 15, by which time one-third were already conducting prostitution.<sup>338</sup> The street, videogame arcades and snooker clubs, as well as shrines and railway stations, are principal pickup places.<sup>339</sup>

After the Soviet invasion of Afghanistan in 1978, more than 4.5 million Afghans took refuge in Pakistan, Iran and other nearby countries. Today, while many of the Afghan refugees in Pakistan have integrated into society, a large number still live in marginalized communities, often in refugee camps or in slums surrounding urban areas, where they lack adequate education, health care and other services.<sup>340</sup> Many of the families are fragmented, numerous households are headed by women or children and the proportion of children in labour is higher than in the non-refugee population. Although statistical data are unavailable, focus group discussions with key informants and adolescents in refugee communities indicate that many refugee Afghan boys conduct prostitution for survival and to support their families.<sup>341</sup>

While female ‘floating’ or street sex workers are rare in Pakistan, boys working as street prostitutes are found in urban areas throughout the country. However, it is important to note that not all boys and men who engage male sexual partners in public areas are clients or prostitutes. As mentioned above, sex between adult men or between men and boys, while discouraged by religion and law, is not socially prohibited.<sup>342</sup>

Boys with female orientation, as in most parts of the world, suffer discrimination as well as pressure from their families to change their orientation and live like ‘males’. Often bullied by their peers or exploited by adults, many boys leave home, seeking a community of persons like themselves. In Pakistan, a study found the average age of leaving home for such boys was 12 to 15 years.<sup>343</sup> These boys are highly vulnerable from *zenana* (transvestite) or *hijra* communities who conduct prostitution. Inducted into the community, the boys are taught the arts of public performance and soliciting money and are socialized into prostitution on the order of the *guru*, or head, of the community. Often, the *guru* of one household will purchase an attractive child from another household. The *guru* provides for the boy’s basic needs and takes all the income the boy earns through prostitution.<sup>344</sup>

The majority of boys working as street prostitutes in Pakistan’s cities, however, are *chawas*, those who dress in male attire. Most began public sexual liaisons for personal sexual

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<sup>338</sup> Pakistan Voluntary Health and Nutrition Association and Azad Foundation, 2004, ‘KABPS study for street children in Karachi’.

<sup>339</sup> ECPAT International and Pakistan Paediatrics Association, 2006, ‘Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)’.

<sup>340</sup> Pakistan Paediatric Association and UNICEF, 2002, ‘Protection assessment among refugees and host communities in major urban areas of Pakistan’.

<sup>341</sup> Ibid.

<sup>342</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, ‘Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia’.

<sup>343</sup> Working Group Against Child Sexual Abuse and Exploitation, and Save the Children Sweden, 2005, ‘Commercial sexual exploitation of children: A situation analysis of Pakistan’.

<sup>344</sup> Menon, S., 2000, ‘An Ali of Chennai’ In Frederick, J. (ed). ‘Fallen Angels: The sex workers of South Asia’.

experience, entering prostitution due to peer pressure. Lahore has an estimated 2,500 of these boys being exploited as prostitutes,<sup>345</sup> frequenting streets, theatres, parks and other public places.

#### 7.1.5.2 Exploitation in travel and tourism

There is no report of international sexual exploitation in travel and tourism in Pakistan.<sup>346</sup> However, the prostitution of boys for local pilgrims and tourists at *mazaars* (shrines of the saints) throughout Pakistan has been noted by researchers.<sup>347</sup> Mostly boys from the NWFP, usually runaways (children who run away from home) or children living on the street, they gather at the shrines on holy days when thousands of pilgrims and visitors come to pay their respects to the saints. Boys servicing Pakistani tourists have also been noted at a number of important historical tourist attractions in the north of the country.<sup>348</sup>

#### 7.1.5.3 Trafficking for sexual exploitation

While there are reports of Pakistani boys being trafficked, as well as smuggled, for domestic service, military service and exploitive labour both inside and outside the country, as well as for camel jockeying in the Gulf states<sup>349</sup> there are few reports of boys being trafficked directly for sexual exploitation. However, the prevalence of forced child labour, bonded labour and other practices significantly increases the likelihood of boys being trafficked into situations from which they might be pushed by need, peer pressure or coercion into prostitution.

## 7.2 Legislation

Pakistan has ratified the Convention on the Rights of the Child, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and ILO Convention 182 on the Worst Forms of Child Labour. It has signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. It adopted the Stockholm Declaration and Agenda for Action in 1996 and reaffirmed its commitment in Yokohama in 2001. It has not signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol).

Pakistan has both national and provincial legislation used to address the sexual abuse and sexual exploitation of children. The primary national legislation includes the Pakistan Suppression of Prostitution Ordinance 1961; the Prevention and Control of Human Trafficking Ordinance 2002 and subsequent Rules of 2003 and 2004; the Offence of Zina (Enforcement of Hudood). Ordinance 1979; the Protection of Women (Criminal Laws

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<sup>345</sup> ECPAT International and Pakistan Paediatrics Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

<sup>346</sup> Ibid.

<sup>347</sup> Working Group Against Child Sexual Abuse and Exploitation, and Save the Children Sweden, 2005, 'Commercial sexual exploitation of children: A situation analysis of Pakistan'.

<sup>348</sup> Haber, D., 1998, 'The pleasure boys of Pakistan's northwest frontier' (unpublished manuscript).

<sup>349</sup> It should be noted that this practice has ended, and the children who were exploited as camel jockeys have got the possibility to return home, *inter alia* through the support by UNICEF and other organizations, more info available at: <[www.unicef.org/infobycountry/pakistan\\_27517.html](http://www.unicef.org/infobycountry/pakistan_27517.html)>, accessed at 18 March 2010.



Amendment) Act 2006; and the Pakistan Penal Code 1860. With the exception of some amendments, Pakistan shares the nineteenth century British Penal Code with Bangladesh and India.

Boys are inadequately protected from both sexual abuse and sexual exploitation in Pakistan law. There is an absence of legislation clearly prohibiting child sexual abuse, and the legal definitions of sexual abuse, sexual consent and trafficking are inadequate. The sexual abuse of boys is not only generally ignored in legislation, but some laws severely penalize boys for sexual activities with other males, whether or not they are coerced into the activities. Trafficking laws are focused on external trafficking and primarily apply to girls. Key passages in legislation that could address trafficking of boys, such as laws against abduction, apply only to boys below the age of 15.

### **7.2.1 Definition of a child**

The legal age of children in Pakistani law varies from 14 to 18. The Prevention and Control of Human Trafficking Ordinance 2002 (Trafficking Ordinance) defines a child as a person who is under 18 years. While there is no specified age for sexual consent, the legal age for marriage is 16 for girls and 18 for boys. However, the Offence of Zina (Enforcement of Hudood) Ordinance 1979 prescribes the age of adulthood for boys as 18 and for girls as either 16 or the onset of puberty, whichever comes earlier.

As dictated by the Hudood Ordinance, Pakistan law holds all persons, male and female, regardless of age, criminally responsible for a number of crimes including rape and adultery.<sup>350</sup> Children are given consideration only in the level of their punishment. For crimes not addressed in the Hudood Ordinance, laws such as the Penal Code prescribe the age of criminal responsibility as 7 years. Under a proposed child protection bill, submitted to Parliament in 2007 and awaiting approval, the minimum age for criminal responsibility would be raised from 7 to 12 years, in compliance with international standards.<sup>351</sup>

The Employment of Children Act 1991 forbids the use of children under 14 in hazardous labour, but permits them in ‘non-hazardous’ work. The act does not forbid children under 14 from working in hotels or restaurants –situations known to be conducive to the sexual abuse of boys in Pakistan.

### **7.2.2 Sexual abuse**

Pakistan has no specific legislation addressing sexual intercourse with a child, which is in all cases considered rape. Among the diverse forms of child sexual abuse, Pakistan legislation only criminalizes rape. It does not address sexual harassment, oral sex, indecent touching, molestation, using indecent sexually explicit language with a child as well as indecent exposure and showing children pornographic material.

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<sup>350</sup> UNICEF Regional Office for South Asia, 2005, ‘South Asia and the minimum age of criminal responsibility’.

<sup>351</sup> National Commission for Child Welfare and Development, 2007, ‘Pakistan’s consolidated third and fourth periodic report to the UN Committee on the Rights of the Child’.

Previous legislation stated that sexual intercourse with any child under 14 was considered rape, as the child could not properly give consent. Today, rape is addressed under the Hudood Ordinance, which supersedes the Penal Code. However, this law is punitive rather than protective, as a child of any age can be convicted of having illicit sexual relationships. It prescribes adult penalties for girl from age 16 or from the time she has menstruated, whichever is earlier. For boys it prescribes adult penalties from the age of 18. In this respect, boys fare than girls better under the law, as the punishment for children is considerably less than for adults. The Hudood Ordinance discourages girls and women from prosecuting rape cases as their testimony alone is not sufficient; rape can be proven only with the testimony of four adult males. Should this testimony not be provided, the girl or woman can be convicted of illicit sexual activity and severely punished.

After much advocacy by legal rights groups against the Hudood Ordinance, the Protection of Women (Criminal Laws Amendment) Act was enacted in 2006. It amends some of the provisions in the Hudood Ordinance and transfers some offences to the Pakistan Penal Code. This Act affects the application of the Hudood Ordinance especially in matters relating to sexual crimes, such as rape. It does not remedy the omission of boys from protection under either the Hudood Ordinance or the Penal Code.

Under the Protection of Women Act, rape is an offence under the Penal Code, and convictions are to be based on evidence. The Act also prohibits charging women with fornication offences in cases where they allege they were victims of rape but cannot prove their 'absence of consent' through the production of four male witnesses. At the same time, activists consider the Protection of Women Act insufficient in addressing the discrimination found in the Hudood Ordinance, as it still allows the judiciary to interpret the law according to strict orthodox precedents. Heterosexual consensual sex outside of marriage continues to be criminalized, although it provides that such complaints are to be investigated by a court before formal charges are laid. Human Rights Watch has criticized the Act, stating that it does not comply with Pakistan's obligations under the Convention on the Elimination of All Forms of Discrimination against Women. The UN Special Rapporteur on freedom of religion or belief has stated that sentences of stoning and amputation for 'adultery' and other offences are still possible under the Act.<sup>352</sup>

While the Hudood Ordinance applies, albeit severely, to girls, it has no application to the rape of boys, as rape is considered to be vaginal penetration. Thus the Hudood Ordinance appears to apply only to heterosexual rape of females by males. In the Pakistan Penal Code as well, the offence of rape is defined by vaginal penetration; only men are perpetrators and only women are victims.<sup>353</sup> A 1997 amendment to the Hudood Law provided severe penalties, including the death penalty, to those found guilty of sodomy with a child as well as those committing gang rape.

The rape of boys, or sodomy, is also addressed under the Pakistan Penal Code, which punishes a person who 'has carnal intercourse against the order of nature with any man,

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<sup>352</sup> Jahangir, A., 2007, 'Presentation on the topic of religion and human rights at the University of Ottawa, Canada, 22 October 2007'.

<sup>353</sup> Pakistan Penal Code, Section 375.

woman or animal...<sup>354</sup> However, while this could be applied to the perpetrator, it is frequently applied to the child victim as well, and it is used to criminalize consensual sex among homosexuals.

There is no separate law or reference in legislation that addresses child sexual abuse by a family member, nor is there legislation in use that specifically criminalizes child sexual abuse by those in care or authority, such as police and care providers. However, such offences may be tried under the Hudood Ordinance.

### ***7.2.3 Sexual exploitation in pornography***

The legislation on pornography is primarily found in the Penal Code<sup>355</sup> and does not include electronic, audio or simulated images. The legislation does not distinguish between adult and child pornography, nor does it address the sexual exploitation inherent in the production of pornography. Pakistan's legislation is therefore inadequate for addressing many aspects of pornography, child pornography in particular. Developed in the nineteenth century, the Penal Code is primarily concerned with protecting the public from the dangers of exposure to indecent literature and artwork. Photographs are not mentioned, though they may be included under 'obscene...representations'. Children are protected from exposure to obscene materials under another provision that forbids the sale of obscene objects to persons under 20 years.<sup>356</sup> Although research has shown extensive exposure of children to Internet pornography,<sup>357</sup> it is not addressed by present legislation.

### ***7.2.4 Other forms of sexual exploitation***

#### ***7.2.4.1 Prostitution***

Laws that criminalize prostitution do not distinguish between adults and children. Children forced into prostitution are treated like adults in the legal system and considered perpetrators rather than victims. While prevention of prostitution is noted in Clause 37 of Pakistan's Constitution,<sup>358</sup> legislation specifically outlaws the prostitution of women and girls, but not of boys. Although earlier laws provided children some protection from sexual exploitation, much of this protection was removed by the Hudood Ordinance, which supersedes other legislation.

The Pakistan Suppression of Prostitution Ordinance 1961 outlaws the institution of prostitution, forbidding brothels (whose definition according to Section 2(a) of the Ordinance includes "any [...] place in which a prostitute resides or carries on prostitution or any place or

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<sup>354</sup> Pakistan Penal Code, Section 377.

<sup>355</sup> Pakistan Penal Code, Section 292.

<sup>356</sup> Pakistan Penal Code, Section 293.

<sup>357</sup> Paediatric Society of Pakistan and Save the Children Sweden, 2001, 'Exposure to pornography in Internet cafés'.

<sup>358</sup> UNESCAP, Government of Japan and NCCWD, 2001, 'Sexually abused and sexually exploited children and youth in Pakistan: A qualitative assessment of their health needs and available services in selected provinces'.

institution where facilities are known to be available for prostitution”<sup>359</sup> as well as public soliciting. Thus the Ordinance effectively prohibits prostitution on the street, in brothels and in homes. Regarding exploitation of children through prostitution, the Ordinance is primarily punitive rather than protective. It does not define child prostitution or punish perpetrators of prostitution with children as a separate offence. Moreover, the Ordinance does not apply to men and boys, only ‘females’. Procuring a person for prostitution, importing a person for prostitution and keeping a person in a brothel are crimes only when inflicted upon women and girls. While criminalizing prostitution, the law makes no distinction between adults and children with the exception of “causing, encouraging or abetting the prostitution of a girl under 16”. In the remainder of the Prostitution Ordinance, the term ‘females’ rather than ‘women’ criminalizes prostitution of girls of any age. It also criminalizes any person over 18, including a husband or parent, who lives with a prostitute, as that person is considered to live off the earnings of prostitution.

Boys working in prostitution may be punished but are usually not protected by the Hudood Ordinance, which criminalizes sex outside marriage and imposes penalties on both children and adults. For protection of children from sexual exploitation, the Hudood Ordinance prescribes penalties for a person who “sells, lets to hire, or otherwise disposes of any person” as well as for a person who “buys, hires or otherwise obtains possession of a person ... for the purpose of prostitution or illicit intercourse”.<sup>360</sup> However, the accompanying explanations in the Ordinance state that this only applies to offences against women, excluding boys. As the Hudood Ordinance does not define ‘woman’ or ‘girl’, it is not clear if the term ‘women’ includes girls. The Pakistan Penal Code reinforces the punishment of boys working in prostitution by outlawing ‘unnatural offences...against the order of nature’.<sup>361</sup> While this section could possibly protect sexually exploited boys, it is more often used to criminalize them.

#### *7.2.4.2 Exploitation in travel and tourism*

Pakistan has no legislation addressing sexual exploitation in travel and tourism, nor any extraterritorial agreements with other countries for prosecution of internationals who abuse Pakistani children.

#### *7.2.4.3 Trafficking for sexual exploitation*

The Constitution of Pakistan prohibits “slavery, forced labour and trafficking in human beings” in its articles 11(1) and 11(2) and it is also stated that a child below the age of 14 shall not be involved in any kind of hazardous employment (article 11.3).

However, most trafficking cases are tried under the Prevention and Control of Human Trafficking Ordinance 2002<sup>362</sup> or the Emigration Ordinance, which impose limited

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<sup>359</sup> Pakistan Suppression of Prostitution Ordinance 1961, <<http://punjablaws.gov.pk/laws/130.html>>, accessed 16 March 2010.

<sup>360</sup> Offence of Zina (Enforcement of Hudood) Ordinance 1979.

<sup>361</sup> Pakistan Penal Code 1860.

<sup>362</sup> <[www.fia.gov.pk/pchto2002.htm](http://www.fia.gov.pk/pchto2002.htm)>, accessed 16 March 2010.

punishment.<sup>363</sup> The Trafficking Ordinance protects both boys and girls under the age of 18. However, the legislation only address cross border trafficking. According to article 3(i) of the Ordinance, which states:

Whoever knowingly plans or executes any such plan for human trafficking into or out of Pakistan for the purpose of attaining any benefit, or for the purpose of exploitative entertainment, slavery or forced labour or adoption in or out of Pakistan.

The law does not address internal trafficking, which probably accounts for the majority of trafficking cases of both boys and girls in Pakistan, as elsewhere in the region. Although sections of the Pakistan Penal Code on abduction and sale of persons can be applied to trafficking, the government often uses Sections 17-23 of the Emigration Ordinance to prosecute cases of internal trafficking. The penalties under this section are mild.

The Trafficking Ordinance has a definition of trafficking that includes “obtaining, securing, selling, purchasing, recruiting, detaining, harbouring or receiving a person”. The perpetrator may be male or female, or an organized criminal group. 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.

While the Hudood Ordinance forbids buying, hiring or selling a person for the purpose of prostitution, these provisions address only women and girls. The only section that could apply to boys as well as women and girls is one prescribing penalties for someone who “kidnaps or abducts any person in order that such person may be subjected [...] to the unnatural lust of any person”.<sup>364</sup>

The Penal Code<sup>365</sup> does not explicitly mention trafficking, but the crime is addressed through sections on procuring (Section 366A), importation into Pakistan (Section 366 B) kidnapping or abducting (367, 367A) and selling or buying of a person (Sections 371A and 371B). With the exception of procuring and importation, these sections apply to boys as well as girls. The Penal Code does not address other mechanisms of trafficking such as recruitment, transportation, transfer, harbouring or receipt a victim. It penalizes those who take or entice girls under 16 from their lawful guardians but protects boys from abduction only until age 14. As well, by requiring ‘lawful guardianship’, the Code does not extend protection to children living on the street, war orphans, abandoned children and others without lawful guardians.<sup>366</sup> Kidnapping or abducting a child under 14 with the intent that the child will be ‘subject to the lust’ of another person applies to both males and females and is severely punished, with death or life imprisonment. While this section does not protect children between ages 14 and 18,

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<sup>363</sup> ECPAT International and Pakistan Paediatrics Association, 2006, ‘Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)’.

<sup>364</sup> Offence of Zina (Enforcement of Hudood) Ordinance 1979.

<sup>365</sup> <[www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html](http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html)>, accessed on 16 March 2010.

<sup>366</sup> UNICEF Innocenti Research Centre, 2009 ‘South Asia in Action: Preventing and responding to child trafficking: Analyses of anti-trafficking initiatives in the region’.

they are protected by another section that penalizes those who kidnap or abduct any person for the same reasons.

The government, with UNICEF assistance, drafted a child protection bill and submitted it for approval of Parliament in 2007. The bill will ensure compliance of national legislation with the Convention on the Rights of the Child and international standards.<sup>367</sup> As of this writing, the bill has not yet been approved by Parliament.

### **7.3 Policy**

A National Plan of Action against Child Abuse and Exploitation was first developed in 2001. It was revised in 2004-2005 by the National Commission for Child Welfare and Development (NCCWD), the lead agency for child rights and welfare in Pakistan, with the collaboration of the PPA, UNICEF and Save the Children Sweden. The revision also involved consultations with children at risk. In 2006, Pakistan's National Plan of Action on Children was adopted, and the NPA against Child Abuse and Exploitation was made an annex to that document.

This NPA covers the themes of prevention, protection, recovery and rehabilitation. Prevention activities include a number of awareness-raising initiatives through different mediums for the public, NGOs and professionals, as well as sensitization programmes for the police and judiciary. Preventive interventions for children at risk are limited to 'community vigilance systems'; they do not include outreach to high-risk children, such as children living on the street or working, or the development of abuse reporting systems. Protection activities include reviewing and proposing legislation, strengthening law enforcement and developing codes of conduct for the operation of children's homes and for addressing child pornography, particularly on the Internet. Recovery and rehabilitation activities focus on building the capacity of service providers, establishing support services for victims and developing a referral system for victims at the local level. Absent from the NPA are the development of minimum standards for caregiving practice and activities related to reintegration of child victims.

The NCCWD (the implementing agency for the NPA) established a Working Group against Child Sexual Abuse and Exploitation, which provides advice and technical support for implementing the NPA. Membership includes the PPA, Sahil, Rozan, Struggle for Change, Vision, Save the Children Sweden and Save the Children United Kingdom. A National Child Protection Plan has been drafted and is under approval by the Federal Cabinet.

A National Plan of Action for Combating Human Trafficking was developed in 2004 by the Ministry of Interior with IOM assistance. It designates the Federal Investigation Agency as the primary implementing agency. It also specifies activities to address trafficking by the Inter-Ministerial Committee on Human Trafficking, Smuggling and Illegal Immigration, anti-trafficking units of the Federal Investigation Agency, and other bodies.

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<sup>367</sup> United Nations Economic and Social Council and UNICEF, 2008, 'Short-duration country programme document: Islamic Republic of Pakistan'.

The trafficking NPA is consistent with past government anti-trafficking interventions, which focus on illegal migration and human smuggling. Government efforts have focused on strengthening mechanisms to prevent irregular migration and smuggling at air, land and coastal exit points, with particular emphasis on Iran and the Gulf states as destinations.

The trafficking NPA addresses prevention of human trafficking, prosecution of offenders and protection of victims. Prevention activities include raising awareness on human smuggling and trafficking, training of stakeholders, security and control of identity documents, surveillance of employment recruiting agencies, and data collection. Prosecution activities focus on inter-agency cooperation, strengthening border controls, training judicial officials and monitoring immigration. Protection activities emphasize establishment and operation of shelters to protect victims and witnesses. It is notable that the objectives include measures of care and protection for victims that are lacking in the NPA against Child Abuse and Exploitation, such as development of operational procedures for reception, treatment and reintegration; trial and post-trial witness protection; and repatriation and reintegration activities. At the same time, the trafficking NPA is primarily focused on victims of cross-border trafficking and lacks measures to address internal trafficking.

An inter-agency Task Force on Human Trafficking, comprised of law enforcement agencies, has been established to intercept trafficking victims and apprehend traffickers at points of origin, transit and cross-border exit from Pakistan. Led by the Federal Investigation Agency, the Task Force includes police, the Maritime Security Agency and the Coast Guard, among others. In addition, an Inter-Ministerial Committee on Human Trafficking, Smuggling and Illegal Immigration was established by the Office of the Prime Minister. Its function is to develop and oversee policies to address trafficking, smuggling and similar crimes related to cross-border movement.

The Federal Investigation Agency has established anti-trafficking units at headquarters and sub-units throughout the country. According to the NPA, these units are responsible for identifying and protecting potential or actual victims of trafficking, identifying and prosecuting offenders, and coordinating the actions of law enforcement agencies and NGOs.

## **7.4 Programme Responses**

### ***7.4.1 Children's participation***

In 2006 in Islamabad, a Children's Forum was organized in coordination with the meeting of the first South Asia Forum on Violence against Children. The Forum is composed of SAARC region governments (represented at the ministerial level), civil society organizations and children's groups. In 2005, UNICEF hosted 10 forums with girls and boys in Punjab province to gather their views, experiences and suggested actions for addressing child sexual abuse and exploitation. Children participated in revising the National Plan of Action against Child Abuse and Exploitation, first developed as a separate NPA in 2001 and revised in 2004-2005. Consultations were held with children, including children at risk, physically challenged children and child victims of sexual exploitation, and a child-friendly version of the NPA was

developed. The NPA was integrated with the Pakistan's National Plan of Action on Children in 2006.

#### ***7.4.2 Monitoring and data collection***

A number of NGOs in Pakistan monitor the sexual abuse and exploitation of children and women, primarily using newspaper and police reports. These include the Child Rights and Abuse Committee of the PPA in Peshawar, Sudhar/War Against Rape in Lahore, Lawyers for Human Rights and Legal Aid (LHRLA) in Karachi and Bedari, Rozan and Sahil in Islamabad. Madadgaar, a protection services centre for children and women established by LHRLA, documents cases of abuse and maintains a database on missing children.

#### ***7.4.3 Legislative changes***

LHRLA, AGHS Legal Aid Cell in Lahore and the Society for the Protection of the Rights of the Child (SPARC) in Islamabad advocate with the public and the government to reform legislation to better protect trafficked and abused children. SPARC and other legal NGOs advocate with legislators to promote child-friendly justice procedures and strengthen the legislation to protect children from abuse.

#### ***7.4.4 Prevention through advocacy and awareness-raising***

In South Asia, Pakistan has been a forerunner in conducting national and community awareness-raising on child sexual abuse, despite the powerful cultural mores that discourage discussion of sexuality and the critique of family and community relationships with children. The NGOs Sahil, Rozan, Struggle for Change, SPARC, Bedari and others have undertaken numerous innovative efforts to bring awareness of sexual abuse to families, communities and government. Due to the sensitive nature of the issues and the tradition of separating males and females in Pakistan, these efforts have been generally conducted from a gender perspective, with groups of male and female children and among parents, primarily with mothers' groups.

In Islamabad, Sahil trains teachers, mothers' groups and children on identifying and preventing sexual abuse. It published the first awareness booklets on the subject in Pakistan. SACH conducts awareness programmes for teachers, parents and children on sexual abuse and domestic violence. Bedari uses street theatre to raise awareness among communities.

Rozan's Aangan programme is directed at improving children's emotional health, with particular focus on child sexual abuse. The programme conducts workshops on emotional health and sexual abuse for parents, children and the general public and offers technical training and sensitization workshops for professionals, including doctors, teachers and community workers. The innovative Aangan Long Distance Volunteer Programme trains and mobilizes volunteers throughout Pakistan to distribute flyers and reading materials on sexual abuse to communities. It also trains volunteers to write articles, collect data on sexual abuse and refer clients to services.



LHRLA's Madadgaar programme raises awareness about preventing sexual abuse among school children in the Karachi area. The Child Rights and Abuse Committee of the PPA in Peshawar conducts focused advocacy activities with government and professionals throughout the country. Savera, in Lahore, conducts awareness-raising among target communities, including boys working in prostitution, on sexually transmitted infections, including HIV/AIDS. Its programme also raises awareness of sexual abuse.

Although the print media in Pakistan have been enthusiastic about reporting cases of child sexual abuse and exploitation, the primary emphasis has been girls; little reference has been made to boys. There has been concern that media reports are excessively sensational, reporting sordid events such as gang rapes and child murders, rather than conscientiously covering 'commonplace' incidents of abuse and exploitation. This approach reinforces the public view that child sexual abuse is rare and extraordinary. In response, the government and civil society groups have sought to increase media awareness, sensitivity and coverage of child abuse and exploitation. The government's National Commission for Child Welfare and Development has designed and disseminated a code of ethics for media on reporting of children's issues, particularly the reporting of incidents of sexual violence.<sup>368</sup> Sahil has developed a code of ethics for reporting on child sexual abuse and distributed over 3,000 copies to newspaper editors and journalists.

Media-Civil Society Interface, an initiative of Journalists for Democracy and Human Rights, sensitizes journalists on confidential reporting of child abuse and exploitation cases and mobilizes the media to report on abuse and exploitation. In 2006, the Sindh Journalists Network with UNICEF support trained journalists in reporting violations against children. Rozan, through its Aangan programme, mobilizes media focus on child sexual abuse through articles in Urdu and English newspapers and magazines.

#### ***7.4.5 Prevention through outreach to vulnerable boys***

Prevention of abuse and exploitation through outreach to vulnerable children, particularly those living on the street, is conducted through drop-in centres in Pakistan's main cities. Vision, with support from Naz International, runs a drop-in centre in Lahore for boys and men of alternative sexual identities, including boys working in prostitution. The drop-in centre provides a safe space for boys to discuss their problems, get medical treatment and receive training on safe sexual practices and prevention of abuse.<sup>369</sup> In Karachi and Rawalpindi, the Azad Foundation has established drop-in centres for children living on the street. The centres offer health care, recreational activities, non-formal education, meals, bathing facilities and clothing. They also provide psychological assistance and crisis services to children in trouble. LHRLA's Madadgaar protection services centre in Karachi provides similar services.

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<sup>368</sup> National Commission for Child Welfare and Development, 2007, 'Pakistan's consolidated third and fourth periodic report to the UN Committee on the Rights of the Child'.

<sup>369</sup> ECPAT International and Pakistan Paediatrics Association, 2006, 'Situational analysis report on prostitution of boys in Pakistan (Lahore and Peshawar)'.

In Peshawar, UNICEF has supported the establishment of 13 drop-in child protection centres for children in collaboration with the Dost Foundation.<sup>370</sup> The centres' services include awareness activities, non-formal education, counselling and legal aid. Sahil, working with juvenile boys in Rawalpindi, has developed education material on sexuality issues for drop-in centres and provides training on adolescent health for boys and girls.

#### ***7.4.6 Addressing exploitation in pornography***

Following its 2001 study on Internet pornography<sup>371</sup> with Save the Children Sweden, the PPA has conducted consultations on the impact of pornography on children, directed at government officials, Internet service providers, Internet café owners and the media. The PPA has developed 'Netsmart' rules for safe Internet use by children, which include forbidding children under 12 years old to use Internet cafés.<sup>372</sup> Its work with the Pakistan Telecommunications Authority resulted in blocking more than 10,000 pornographic websites and the development of a voluntary code of conduct on pornography-free services for Internet café owners. The Authority has also issued warnings to café owners who allow children to view pornographic materials.

#### ***7.4.7 Addressing exploitation in travel and tourism***

Pakistan has no programme responses that directly address sexual exploitation in travel and tourism.

#### ***7.4.8 Responses to sexual abuse and exploitation***

##### *7.4.8.1 Children's reporting of abuse*

Getting children to report abuse is a challenge throughout South Asia, due to social denial of the problem, children's fear of recrimination and the lack of reporting services. In Karachi, the LHRLA Madadgaar protection services centre for children and women has developed hotline and personal contact services for abuse victims in collaboration with UNICEF and Child Helpline International. In Islamabad, Sahil and other NGOs collect information from schools during their awareness activities, although their ability to intercede in abuse cases is limited. LHRLA in Karachi, AGHS Legal Aid cell in Lahore and SPARC in Islamabad provide legal aid and referral services to abused and exploited girls and boys.

##### *7.4.8.2 Safe shelter and crisis response*

Limited safe shelter and crisis centres for victims are available in Pakistan and are mainly available only in larger urban areas. The provincial government of Punjab established a Child Protection and Welfare Bureau and eight social services centres for lost and kidnapped

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<sup>370</sup> National Commission for Child Welfare and Development, 2007, 'Pakistan's consolidated third and fourth periodic report to the UN Committee on the Rights of the Child'.

<sup>371</sup> Pakistan Paediatric Association and Save the Children Sweden, 2001, 'Exposure of children to pornography at the Internet cafés'. Peshawar, Save the Children Sweden.

<sup>372</sup> National Commission for Child Welfare and Development, 2007, op.cit.

children (Nigehban) in divisional headquarters as of 2007. These centres receive cases and provide protection for children living on the street, trafficked children and children without parental care. Staff at the centres try to trace families and reunite them. If the parents cannot be found the children are referred to child care institutions or orphanages. Similarly, eight welfare homes have been established by the NWFP provincial government for homeless, destitute and runaway children, as well as children living or working on the street. These centres provide safe shelter and rehabilitation, referral and reintegration services.<sup>373</sup> The majority of drop-in centres are focused on boys, given that few girls leave the family home.

Madadgaar is a protection services centre for children and women in Karachi, established by LHRLA in collaboration with UNICEF. The centre provides crisis intervention services for children and women, including legal aid, referral to service providers and counselling and psychotherapy for victims by trained clinical psychologists. SACH, in Islamabad, also provides shelter to children who have endured physical and sexual violence. The group's community-based programme targets children who are refugees or who have left home.

In 2005, Save the Children Sweden established a child protection committee at a hospital in Lahore as part of a pilot to develop a model of multidisciplinary management of child abuse and exploitation cases. The programme provides services to victims of physical, sexual and psychological violence and referral to legal support. It has provided training at other health facilities in the province, and its approach was replicated in five other major hospitals in Pakistan in 2006. More than 250 health professionals have been trained in identifying and managing abuse cases.<sup>374</sup>

#### *7.4.8.3 Psychosocial care*

Psychological counselling services for boy victims of sexual abuse and exploitation have improved in Pakistan in recent years, although the number of counselling practitioners remains insufficient. The common wisdom is that boys are less likely than girls to suffer psychological and physical damage from sexual exploitation and are better able to 'heal' themselves, so their needs for rehabilitative services have not been considered as important.<sup>375</sup>

The National Commission for Child Welfare and Development established a core group on commercial sexual exploitation and sexual abuse of children to help NGOs and other stakeholders respond to these issues. The group developed a manual on psychosocial recovery and rehabilitation with the assistance of Rozan and UNICEF. It has since been used by several NGOs to train professionals in medical and psychological response.<sup>376</sup>

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<sup>373</sup> National Commission for Child Welfare and Development, 2007, 'Pakistan's consolidated third and fourth periodic report to the UN Committee on the Rights of the Child'.

<sup>374</sup> National Commission for Child Welfare and Development, 2007, 'Pakistan's consolidated third and fourth periodic report to the UN Committee on the Rights of the Child'.

<sup>375</sup> Save the Children Sweden-Denmark (Slugget, C.), 2003, 'Mapping of psychosocial support for girls and boys affected by child sexual abuse in four countries in South and Central Asia'.

<sup>376</sup> National Commission for Child Welfare and Development. 2007, op.cit.

Rozan's Aangan programme uses a team of psychologists, psychiatrists, doctors and counsellors to assess children's emotional and mental health and counsel abuse victims. Counselling is provided through letters, telephone and in person to child victims, adult survivors and parents of sexually abused children. The programme also works with sexual abuse offenders. A number of NGOs and institutions provide counselling for victims as well as perpetrators, including the PPA, Amal, Azad Foundation, Dost Foundation, SACH and the psychology department at Hamdard University. Interventions with families of abused children are currently limited due to the cultural restrictions on interfering with private family affairs.

## 8.0 COUNTRY PROFILE: SRI LANKA<sup>377</sup>

### 8.1 Research Findings

#### 8.1.1 Country background

Over the last 25 years, the economy of Sri Lanka has been damaged by civil conflict and the erosion of its traditional agricultural base. Scarcity of land and irrigated water, increasing production costs and loss of markets have reduced the growth of agriculture, the economic foundation for three-quarters of the country's population. Yet rural-to-urban migration is relatively slow, unlike other South Asian countries. Coupled with increasing rural poverty, the country's strategies for economic development in the last two decades – particularly the migration of women for overseas employment and the development of tourism – have resulted in a significant loss in protection of children from sexual abuse and exploitation.

Sri Lanka has had a strong social safety net for more than 50 years and has succeeded in providing adequate services to its people. It has sufficient health care services, informative media coverage and one of the best educational systems in South Asia. With a long tradition of government priority for education, children have easy, free access to school, and enrolment is high. In 2000, children under 19 comprised about 46 per cent of the population of 19.3 million people.<sup>378</sup>

The civil conflict with the Liberation Tigers of Tamil Eelam (LTTE) has had a powerful impact on the country's social foundations, affecting an estimated 1.7 million people over the last 20 years.<sup>379</sup> As of 2002, an estimated 800,000 people had been displaced, many into refugee camps and temporary shelters.<sup>380</sup> In the war-affected zones in the north and east, basic services such as health, education, transportation, electricity, water and sanitation have deteriorated. The war has eroded children's safety nets, and sexual abuse and exploitation have increased.<sup>381</sup> The tsunami of December 2004 added to the burden on the lives of the poor. A 2006 study found increased vulnerability to physical and sexual abuse among children housed in 'tsunami camps', but no clear links could be established between the tsunami and child trafficking.<sup>382</sup>

In addition to rural poverty and war, protection of Sri Lankan children from sexual abuse and exploitation has been further eroded by national economic strategies. Sri Lanka has the highest proportion in South Asia of women migrating overseas for employment. As of 1996,

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<sup>377</sup>As mentioned in the section on Scope and Limitations, most of the research for this report was gathered in 2008. It therefore does not take into consideration the changes that have occurred since that time, and that have impacted all aspects of children's rights, including the right to be protected from sexual abuse and exploitation.

<sup>378</sup>International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>379</sup>Consortium of Humanitarian Agencies, 2006, 'Sri Lanka country profile'. Colombo: CHA.

<sup>380</sup>United Nations High Commissioner for Refugees, 2007, <[www.unhcr.lk](http://www.unhcr.lk)>

<sup>381</sup>International Labour Organization (Coomaraswamy, R. and Satkunanathan, A.), 2006, 'Anti-child trafficking legislation in Asia: A six-country review'.

<sup>382</sup>Terre des hommes (Lausanne), 2006, 'Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children' (draft).

an estimated 150,000 women, primarily mothers of small children, had migrated to the Gulf states to work as housemaids or in other occupations. This number has increased considerably since 2000, and the absence of primary caregivers in the home is considered a primary causal factor for the apparent high rate of domestic sexual abuse.<sup>383</sup>

Sri Lanka has rapidly developed its tourism industry since the 1970s. In 2002 it accounted for nearly 8 per cent of economic growth and is the fourth largest generator of income.<sup>384</sup> The low level of child protection, high level of family fragmentation and strong promotion of tourism have contributed to the growth of an industry that has resulted in the sexual exploitation of children in tourism. In Sri Lanka, the exploitation of boys appears to be greater than that of girls, and the majority of boys being exploited in prostitution serve the tourism industry.<sup>385</sup>

### **8.1.2 Knowledge base**

The knowledge base on the sexual abuse and exploitation of boys in Sri Lanka is weak, considering that Sri Lanka has long been aware of boys' sexual exploitation and started investigating sexual abuse of children and sexual exploitation of boys in the 1980s, earlier than any other country in South Asia. However, unlike other South Asian countries, sexual abuse and exploitation have been topics of academic discourse for the last 15 years. Sri Lankan academics have been exploring the linkages between sexual abuse and exploitation and examining the effect of family dysfunction and domestic abuse on children entering prostitution, an activity still new among all but a few academics in other South Asian countries. This discourse has directly influenced legislation, policy and programming, resulting in a focus on addressing problems in families and communities that increase children's vulnerability to abuse and exploitation.

At the same time, formal research outside academia has been scarce and of mixed quality. Relatively little research has been conducted, and most of it is not recent. NGOs have not applied rigorous methods in conducting research, nor have donor agencies carefully overseen the methodological rigour of the research conducted. Most qualitative research on the situation of boys consists primarily of case studies and descriptions of the venues of sexual exploitation in travel and tourism. In almost all, target populations have been poorly defined and analysis has been superficial. Reliable quantitative data on the sexual abuse of children are lacking. However, it should be noted that two useful Knowledge, Attitudes and Practices (KAP) studies of children, parents and other stakeholders on sexual abuse and exploitation of children have been conducted in the last three years, with UNICEF support. All other South Asian countries are lacking KAP studies of similar comprehensiveness and quality, and are thus lacking baseline data with which to monitor changes in social attitudes and evaluate the effectiveness of prevention awareness interventions.

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<sup>383</sup> Save the Children in Sri Lanka, 2006, 'The impact on children and families of mothers migrating for work abroad.' LST Review, 7:226.

<sup>384</sup> International Labour Organization (S. Amarasinghe), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment,' Geneva: ILO-IPEC.

<sup>385</sup> PEACE, 1996, 'Studies on the commercial sexual exploitation of children in Sri Lanka; and Weeramunda, A.J., 1994, 'Child prostitution or poverty' in *Economic Review*, May-June 1994.

The development community in Sri Lanka has been very aware of the impacts on children of both its long civil war and the recent tsunami. Thus, recent changes of economy and society in the country have been somewhat reflected in the knowledge base (discussed below) by, for example, including children living in the war zones or tsunami-affected areas among the target populations of vulnerable and exploited children. However, due to inadequate research methodology and analysis, the impacts of war, social change and natural disaster on the sexual abuse and exploitation of boys are not clear. For example, the impacts of the war on boys' involvement in sex tourism or the possible increase of boy sexual abuse by military personnel have not been studied or analysed.

### **8.1.3 Sexual abuse of boys**

Concerns and research about sexual abuse and exploitation and travelling sex offenders, particularly affecting boys, emerged about 30 years ago, earlier than in other countries of the region.<sup>386</sup> Yet research on the situation has flagged in recent years, with only a few professional studies having been conducted since 2000.

Although research has not provided comprehensive quantitative data, studies have shown that sexual abuse of boys by adults is prevalent in Sri Lanka.<sup>387</sup> An estimated 20 per cent of boys and 10 per cent of girls are abused at home or school.<sup>388</sup> Boys are also abused in recreational and work settings, such as on the beach and in fishing boats, hotels and shops.<sup>389</sup> Research has shown a high rate of sexual abuse of domestic labourers, primarily girls.<sup>390</sup> As elsewhere in South Asia, boys living on the street are abused by local vendors and other people living or working on the streets.

Boys' average age of first sexual abuse is approximately 14 years, and the perpetrators are primarily male, usually peers, relatives or family friends. For boys living near tourist areas, foreigners are often the first perpetrators.<sup>391</sup>

Studies in Sri Lanka have shown a relatively high rate of consent among boys to the first sexual contact, particularly in tourist areas, rather than use of force or duplicity. It is not easy to separate sexual abuse of boys from their entry into sexual exploitation. Many boys enter abusive situations without remuneration, primarily through the influence of peers or foreign tourists. This is often a matter of 'friendship' with the perpetrator, as well as peer pressure to engage in what many boys consider a 'recreational activity'.

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<sup>386</sup> For example, Bond, T., 1980, 'Boy prostitution in Sri Lanka', Lausanne, Terre des hommes.

<sup>387</sup> de Silva, H., 2000, 'Child Abuse in Sri Lanka', in Partners in the Judicial Process on Child Labour.

<sup>388</sup> National Child Protection Authority, 2003, 'Many children still abused and neglected in Sri Lanka'. Accessed at: <[www.childprotection.gov.lk/newsUpdate081020031.htm](http://www.childprotection.gov.lk/newsUpdate081020031.htm)>

<sup>389</sup> Terre des hommes (Lausanne), 2006, 'Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children'. (draft)

<sup>390</sup> International Labour Organization (H. de Silva, Kannangara, N. and Parndigamage, N.), 2003, 'Sri Lanka child domestic labour: A rapid assessment'.

<sup>391</sup> International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

However, these data emphasize abuse by travelling sex offenders, and the focus of research on ‘sex tourism’ in Sri Lanka has obscured the incidence of abuse of boys in communities distant from the influence of foreign offenders. ‘Local’ abuse is perpetrated primarily by male relatives and teachers.<sup>392</sup>

While reporting of child sexual abuse is poor in Sri Lanka, as it is globally, public awareness of it is high, unlike in other South Asian countries. In a 2007 study conducted with 2,500 school children aged 13 to 17 and with 1,500 parents and guardians, 70 per cent of the children were aware that boys as well as girls were sexually abused. The majority could identify the harmful effects of sexual abuse, including HIV/AIDS, pregnancy and social stigma. Similarly, more than 80 per cent of the parents were aware of the sexual abuse of boys and its harmful effects, and three-quarters knew that children under 10 could be victims. More than one-half of the parents/guardians had discussed the dangers of sexual abuse with their children.<sup>393</sup>

Yet sexual abuse is not discussed openly, and many people do not consider abused children, particularly boys, to be victims. Girls are blamed for being ‘loose’ or having unreliable parents, and boys who are abused are generally ignored.<sup>394</sup> Families are reluctant to report their children’s sexual abuse because of shame, reluctance to get involved in court proceedings or pressure from influential people to ignore the offence.<sup>395</sup>

#### ***8.1.4 Sexual exploitation in pornography***

There is little formal information about children’s exposure to pornography or their abuse in the production of child sexual abusive material.. Internet cafés abound in urban areas, and in addition to safe and legitimate use of computers and the Internet, some children watch blue movies and download pornographic materials, participate in sex-related chat rooms. Travelling sex offenders are closely linked with the production of child pornographic materials, both for private use by abusers and for commercial purposes. There is evidence that foreign sex exploiters and their local counterparts photograph and film children as well as conduct sexual acts.<sup>396</sup>

#### ***8.1.5 Other forms of sexual exploitation***

##### ***8.1.5.1 Prostitution and exploitation in travel and tourism***

Sri Lanka is unique in South Asia in that exploitation of boys through prostitution appears to be concentrated in the foreign tourist industry. There appears to be little exploitation of boys by local men and women; exploitation in local tourism primarily victimizes girls and

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<sup>392</sup> de Silva, H., 2000, ‘Child Abuse in Sri Lanka’, in *Partners in the Judicial Process on Child Labour*.

<sup>393</sup> Sri Lanka Tourist Board and MG Consultants, 2007, ‘Knowledge, attitudes and practices of school children and their parents in relation to child sex tourism: Final report’.

<sup>394</sup> de Silva, H., 2000, *op.cit.*

<sup>395</sup> Terre des hommes (Lausanne), 2006, ‘Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children’. (draft)

<sup>396</sup> Keerthisinghe, H.R.S., Community Health Foundation ‘Sahana Sevana’, Ja-ela, personal communication, 2003.



women.<sup>397</sup> For this reason, prostitution and exploitation in travel and tourism are combined in this chapter.

The number of children conducting prostitution in Sri Lanka and the proportion of boys versus girls are unknown. Estimates regarding the number of children involved as of the late 1990s ranged from 15,000<sup>398</sup> to 36,000.<sup>399</sup> While estimates of the gender proportion tend to be influenced by the country's focus on the exploitation of boys in tourism, almost all sources indicate a larger proportion of boys in prostitution. The NGO Protecting Environment and Children Everywhere (PEACE) estimated a ratio of 80 per cent boys to 20 per cent girls in 1996.<sup>400</sup> A study in 1994, using a small sample of children, found that 63 per cent of children conducting prostitution were boys.<sup>401</sup> However, it is thought that the proportion of girls in prostitution has increased during the early years of the 21st century due to demand from soldiers in conflict areas and local offenders.<sup>402</sup>

Tourism destinations in Sri Lanka are primarily beachfront towns and villages. The boys who are exploited by travelling sex offenders mostly come from coastal communities, primarily from families that live by fishing or agricultural work, particularly on the coconut plantations. Some live on the street, some have fled the conflict and some have left other labour situations to earn money from tourists. The decline of coconut plantations and the fishing industry have led to high rates of unemployment among coastal families. In addition, boys are increasingly disinclined to be fishermen or agricultural labourers when the tourism industry can provide them with higher income.<sup>403</sup>

Unlike many boys in prostitution in Bangladesh, India and Pakistan, few boys in Sri Lanka engage in 'casual' prostitution to supplement income from other jobs. A 2002 study of 78 boys and 42 girls sexually exploited in prostitution showed that 80 per cent of the boys had no other source of income.<sup>404</sup>

Although the average educational achievement of Sri Lankan children is high for South Asia, as of 2000, 29 per cent of all children aged 15 to 17 were not in school.<sup>405</sup> Children being sexually exploited in prostitution have much less education than the average child. The 2002 study found that one-quarter of the children being sexually exploited in prostitution had completed only up to class five, and two-thirds had only completed class nine – low

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<sup>397</sup> International Labour Organization (S. Amarasinghe), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>398</sup> PEACE, 1999, 'Sexually exploited and abused children: A qualitative assessment of their health needs and services available to them in Sri Lanka'.

<sup>399</sup> ECPAT UK, 2005, 'Child sex tourism in Sri Lanka' (quoting estimate from 1998 UNICEF study).

<sup>400</sup> PEACE, 1996, 'Studies on the commercial sexual exploitation of children in Sri Lanka'.

<sup>401</sup> Weeramunda, A.J., 1994, 'Child Prostitution or Poverty', *Economic Review*, May-June 1994.

<sup>402</sup> Zulfi, A., 2007, 'Issues of child trafficking in eastern Sri Lanka: A case study of Batticaloa District'.

<sup>403</sup> ECPAT International and South Asia Partnership International, 2003, 'A situational analysis of child sex tourism in Sri Lanka'.

<sup>404</sup> International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>405</sup> Department of Census and Statistics, Government of Sri Lanka, 1999, 'Child activity survey'.

education levels for Sri Lanka.<sup>406</sup> More than one-third of those who had dropped out said they had been punished by teachers or humiliated by other students.

Sri Lanka is also unique in South Asia in that boys do not generally enter prostitution from intermediate labour situations, nor do most enter due to coercion, duplicity or dire economic need. Notably, unlike boys in prostitution in other South Asian countries, most of whom are separated from their families, the majority of sexually exploited boys in Sri Lanka operate from their own village and live at home. Most of the boys interviewed in the 2002 study said their parents were unaware of their activities.

Boys typically enter prostitution from age 11 to 17. A study showed that only 20 per cent were motivated by the need for income, while one-third were influenced by friends and somewhat fewer by their 'environment' – that is, beach areas where boys get together to recreate, take drugs, etc. Sometimes older boys recruit or even 'purchase' younger boys from families,<sup>407</sup> or parents encourage their children to enter prostitution, wanting to share in their income. Often, foreign tourists themselves apprehend and 'groom' boys, enticing them with clothes, food, money and promises of travel or support for their parents.

Most of the boys are sexually exploited only by males, although a 2006 study noted increasing numbers of female foreign tourists taking 'male companions' (both child and adult) during their holidays.<sup>408</sup> Foreign travelling offenders are usually older men, with a mean age of about 47 years. Boys frequently contact them on the beaches and in hotels or guesthouses, or through intermediaries. The most common intermediaries are networks of other boys who hang out on the beaches and refer 'clients' to their peers. Motor rickshaw drivers and tourist guides supplement their income by introducing tourists to boys.<sup>409</sup> Notably, nearly one-fifth of the intermediaries were the boys' relatives.<sup>410</sup> Boys are actively 'sold' for sexual exploitation in the country's tourist areas. A study conducted with 500 international tourists in 2007 showed that one-fourth had been approached for child sex – by beach boys, rickshaw drivers or hotel personnel.<sup>411</sup>

Sexual exploitation primarily takes place in hotels, guest houses and the houses of friends, as well as the houses of foreigners who are long-term residents. Solicitation and subsequent sexual activities are more casual and longer term in Sri Lanka than in other South Asian countries. The interaction is often on a 'friendly' basis and many boys conduct long-term relationships with foreign travelling sex offenders, who return to Sri Lanka regularly to meet the same child. The interaction is not strictly commercial, involving exchanges of gifts, joint travel and a 'relationship'.

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<sup>406</sup> International Labour Organization (Amarasinghe, S.), 2002, op.cit.

<sup>407</sup> Goonesekara, S. and Wanasundare, L., 1998, 'Commercial sexual exploitation of children in Sri Lanka'.

<sup>408</sup> Terre des hommes (Lausanne), 2006, 'Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children' (draft).

<sup>409</sup> ECPAT International and South Asia Partnership International, 2003, 'A situational analysis of child sex tourism in Sri Lanka'.

<sup>410</sup> International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>411</sup> Sri Lanka Tourist Board and MG Consultants, 2007, 'Knowledge, attitudes and practices of local and international tourists in relation to commercial sexual exploitation of children in tourism: Final report'.

Unlike other countries in South Asia, the demand in Sri Lanka is highest for older boys, aged 15 to 17. They make more money and have more bargaining power than younger boys, who often only receive gifts in exchange for sexual services. While some offenders have provided extensive support to boys, including boats or houses for their parents, most boys make little more than pocket money. Research has shown that boys spend little on their own basic needs and provide little money to their families; nearly two-thirds of their income is spent on drugs, alcohol, recreation and entertainment.

In terms of preventing sexual exploitation and withdrawing boys from exploitative situations, perhaps the most challenging features of the Sri Lanka sex industry are boys' 'willingness' and the complicity of families in their exploitation. Interviews with boys in prostitution showed that 74 per cent were willingly involved, with no force or coercion.<sup>412</sup> Drug abuse is significant in keeping boys in sexually exploitive situations, and 54 per cent of boys interviewed said the primary purpose of earning income was to buy drugs.

The situation of boys being sexually exploited in prostitution in Sri Lanka belies the situation common to much of South Asia, where the causes are poverty, family separation, exploitive labour and lack of awareness. Some researchers claim that poverty is not a primary cause in Sri Lanka because there is little extreme poverty in the areas most prone to sexual exploitation. A 2002 study found that only one-quarter of the boys were from 'very poor' families; the majority were from 'poor' and 'not so poor' families.<sup>413</sup> But there are indications that families push children into prostitution to supplement insufficient incomes.

Nor does lack of parent or community awareness seem to be a major causal factor. Children are relatively well educated, media coverage of the issue is adequate and there is a high level of awareness of sexual abuse and exploitation, including that of boys, compared to other parts of the region. The 2007 study involving 1,500 parents and guardians found that over 90 per cent were aware that sexual abuse could be committed by international travelling offenders, and more than three-quarters were aware that abuse could be committed by local offenders.

Although poverty and lack of awareness certainly contribute to the sexual exploitation of Sri Lankan children, researchers, NGOs and the government identify the erosion of family protective systems as a primary cause of children becoming sexually exploited through prostitution in the country. Sri Lankan researchers have extensively studied the disruption of family protective environments and its effect on the vulnerability of boys to sexual exploitation.<sup>414</sup> Strategies and activities to directly address family dysfunction are found in government policy and programme interventions. In other countries of South Asia, these linkages have been insufficiently explored by research and insufficiently addressed in policy and programming.

Family fragmentation, particularly the migration of mothers, is frequently cited by researchers and policymakers as a cause for the relatively high incidence of domestic sexual abuse. It is

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<sup>412</sup> International Labour Organization (S. Amarasinghe), 2002, op. cit.

<sup>413</sup> Ibid.

<sup>414</sup> For example, Weeramunda, A.J., 1994, 'Child prostitution or poverty' in *Economic Review*, May-June 1994; and de Silva, H., 2000, 'Child abuse in Sri Lanka', in *Partners in the Judicial Process on Child Labour*.

considered that when parental supervision is lacking, especially by mothers, opportunities arise for males in the family and community to sexually abuse both boys and girls. In a 2002 study, many adult informants, including probation officers and child welfare officers, indicated that mothers' migration for labour was contributing to child sexual abuse in the home and community and the subsequent entry of children into sexual exploitation through prostitution.<sup>415</sup> A number of Sri Lankan researchers who have examined the link between sexual abuse and sexual exploitation have strongly suggested a direct causality.<sup>416</sup>

The armed conflict has disrupted and displaced families, forcing them to live in poverty with lack of services. Over 250,000 children were displaced just between 1999 and 2002.<sup>417</sup> As a consequence, both boys and girls have been subject to rape, kidnapping and sexual abuse by soldiers from both sides of the conflict. The impact has been primarily on girls, and extensive sexual exploitation of girls through prostitution has developed in border villages in the north and east of the country.<sup>418</sup> While few boys have been drawn into prostitution in those areas, some have fled broken families or abduction by the LTTE to coastal areas out of the war zone, where they conduct prostitution for the tourist industry.

Research has identified family dysfunction (along with family fragmentation) as a contributing cause of both sexual abuse and children's entry into sexual exploitation through prostitution.<sup>419</sup> In studies, numerous respondents from all spheres state that 'parents don't take good care of their children,'<sup>420</sup> citing domestic violence, physical abuse and alcoholism as primary problems. It is frequently said that families don't care about the abuse of their children and that they don't feel it is bad for their boys to 'go with' foreigners. On the contrary, many families are seen to encourage their boys to do so, expecting that both they and their children will benefit. Although not abjectly poor, many families recognize the relative wealth of the travelling sex offenders as an opportunity. They believe that their sons' sexual exploitation is a legitimate way to earn money.<sup>421</sup>

Research also has indicated that communities do not support the prevention of child abuse and child exploitation through prostitution. Although aware of sexual abuse and exploitation as a problem, communities are apathetic and lack vigilance.<sup>422</sup> Communities generally do not repudiate boys for having consensual sex with foreigners, although they do criticize them for having sex with local men, using derogatory terms such as *kotiya* or *kolukaraya*. Girls,

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<sup>415</sup> International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>416</sup> Weeramunda, A.J., 1994, op.cit. and de Silva, H., 2000, op. cit.; International Labour Organization (S. Amarasinghe), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment; and Terre des hommes (Lausanne), 2006, 'Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children (draft).

<sup>417</sup> International Labour Organization (Amarasinghe, S.) op. cit.

<sup>418</sup> Zulfi, A., 2007, 'Issues of child trafficking in Eastern Sri Lanka: A case study of Batticaloa District'.

<sup>419</sup> Goonesekara, S. and Wanasundare, L., 1998, 'Commercial sexual exploitation of children in Sri Lanka'.

<sup>420</sup> Weeramunda, A.J., 1994, 'Child Prostitution or Poverty' *Economic Review*, May-June 1994.

<sup>421</sup> Terre des hommes (Lausanne), 2006, 'Sri Lanka research report: Child trafficking and links with child sex tourism and the commercial sexual exploitation of children' (draft).

<sup>422</sup> ECPAT International and South Asia Partnership International, 2003, 'A situational analysis of child sex tourism in Sri Lanka'.

however, face deep stigma if they are abused or engage in prostitution, due to the cultural importance of virginity and families' fear of pregnancy out of wedlock.<sup>423</sup>

#### *8.1.5.2 Trafficking for sexual exploitation*

Like other parts of South Asia, Sri Lanka has a low incidence of boys trafficked directly for the purpose of sexual exploitation, either inside or outside the country.<sup>424</sup> Yet a considerable number of children are internally trafficked for domestic labour,<sup>425</sup> and the trafficking and forced recruitment of children as combatants in the LTTE has been well documented.<sup>426</sup> Children are also trafficked for other exploitive labour purposes, illegal adoption and forced begging.<sup>427</sup>

## **8.2 Legislation**

Sri Lanka has ratified the Convention on the Rights of the Child and the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. It has signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) and ILO Convention 182 on the Worst Forms of Child Labour.

The legislation of Sri Lanka relevant to child sexual abuse and sexual exploitation includes the Penal Code of Sri Lanka; Ordinance No. 2 of 1883 and subsequent Amendments; the Vagrants Ordinance 1941; the Brothels Ordinance; the Children and Young Persons Ordinance No. 48 of 1939; and the National Child Protection Authority Act 1998.

The Penal Code of 1883 lacks adequate provisions to address child sexual abuse and exploitation. This was remedied under the Penal Code (Amendment) Acts No. 22 of 1995, No. 29 of 1998 and No. 16 of 2006. The country's legislation in general does not discriminate against boys, although as in many other legislation in South Asia, boys can be treated as perpetrators as well as victims under legal provisions criminalizing sodomy. The legislation as a whole is comprehensive in addressing all forms of sexual abuse, although it does not adequately protect boys and girls aged 16 to 18.

### **8.2.1 Definition of a child**

The Age of Majority (Amendment) Act No. 17 of 1989 places the age of majority at 18. The Children and Young Persons Ordinance 1939 does not deal with age of majority as such, but defines a 'child' as being under 14 and a 'young person' as being under 16 only for the purpose of care and protection and juvenile justice. The Penal Code (Amendment) Act (PCA) No. 22 of 1995, the most viable legislation to address child abuse, places the age of statutory

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<sup>423</sup> Ibid.

<sup>424</sup> International Labour Organization (Amarasinghe, S.), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment; and Terre des hommes (Lausanne), 2006, op. cit.

<sup>425</sup> Department of Census and Statistics, Government of Sri Lanka, 1999, 'Child activity survey'.

<sup>426</sup> Human Rights Watch, 2004, 'Living in fear: Child soldiers and the Tamil Tigers in Sri Lanka'. At <[hrw.org/reports/2004/srilanka1104/](http://hrw.org/reports/2004/srilanka1104/)>

<sup>427</sup> Zulfi, A., 2007, 'Issues of child trafficking in Eastern Sri Lanka: A case study of Batticaloa District'.

rape as below 16. The age of marriage is 18 for both males and females. The minimum age of criminal responsibility is 8 years old, although judges have discretion to decide whether or not to hold criminally accountable a child between 8 and 12 years of age. A draft Juvenile Justice Procedure Act seeks to raise the age to 10 years.<sup>428</sup> The general minimum age of employment for most sectors of work is 14 years old.

### **8.2.2 Sexual abuse**

Sexual intercourse with a male child is not explicitly recognized as child sexual abuse in Sri Lankan law. The act would be adjudicated within the definition of ‘grave sexual abuse’ in section 365(b) of the Penal Code 1883.<sup>429</sup> Section 363 of the Penal Code defines rape as sexual intercourse of a female victim by a male perpetrator,<sup>430</sup> and this gap was not rectified in the Penal Code (Amendment) Act 1995. Consent is considered irrelevant if the girl is under the age of 16. Between 16 and 18, the child’s lack of consent must be proved by the prosecution. However, aggravated offences include rape of any female below 18, as well as gang rape, rape of a mentally or physically disabled person, and rape by a person in a position of authority or the management or staff of a caregiving facility. This amendment also references juvenile offenders; those under 18 are given lighter sentences for the rape of a girl under 16. In addition, heavy penalties are provided for incestuous rape of a girl under 16.

Although abused boys are not identified as rape victims per se under the section on rape, sexual intercourse with boys can be adjudicated under section 365 of the Penal Code, ‘Of Unnatural Offences’, and the 1995 Amendment Act. This section, held in common with the nineteenth century colonial penal codes of India, Pakistan and Bangladesh, punishes a person who “voluntarily has carnal intercourse against the order of nature with any man, woman or animal”. Stricter penalties are imposed on those over 18 who commit sodomy with persons under the age of 16. This section and its amendment have two constraints: they do not protect boys between the ages of 16 and 18, and they presumably could be used to convict children as co-perpetrators rather than victims and to criminalize adult male homosexual relationships, as has been done in India, Pakistan and Bangladesh.

Sexual intercourse with a male child perhaps could be adjudicated under 365(b) of PCA 1995 and PCA 1998, ‘Grave Sexual Abuse’, in which a person “for sexual gratification, does any act, by use of his genitals or any other part of the human body or any instrument on any orifice, or part of the body of any other person, being an act which does not amount to rape under Section 363”.<sup>431</sup> This definition covers many of the non-penetrative forms of sexual abuse and would include oral sex, molestation (touching, fondling, kissing) and masturbation of either the perpetrator or the victim. Absence of consent is limited to age 16, although the perpetrator is given a heavier penalty for grave sexual abuse of a person under 18. As in the section on rape, consent is irrelevant if the victim is in detention. Women as well as men can be convicted of this offence, although there is no reference to juvenile perpetrators.

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<sup>428</sup> UNICEF Regional Office for South Asia, 2005, ‘South Asia and the minimum age of criminal responsibility’, page 5

<sup>429</sup> Sri Lanka Penal Code, Section 365B,

<sup>430</sup> Sri Lanka Penal Code, Section 363.

<sup>431</sup> PCA 1995 and 1998.

Section 365(a) of PCA 1995 forbids 'gross indecency'. The section forbids anyone to commit, or procure another person to commit, 'any act of gross indecency', with additional punishment provided for those over 18 who commit such an act with a person under 16. The section thus does not include additional punishment for those who commit offences upon children between 16 and 18. Women as well as men can be considered perpetrators. However, the term 'gross indecency' is not defined. It is generally used to mean sexual intercourse with members of the same sex, and as such it has been used to victimize child victims as well as their abusers.<sup>432</sup> It is not clear whether it could be used to address non-penetrative or non-physical forms of sexual abuse, including using indecent sexually explicit language towards a child as well as indecent exposure of sexual activities and showing children pornographic material.

Sexual harassment, including communicating suggestive words to a child, is adequately covered in section 345 of the Penal Code and its 1995 amendment. The section prohibits 'sexual annoyance or harassment' whether committed by assault or criminal force, or by 'the use of words and actions'.<sup>433</sup> Although either males or females can be considered perpetrators, and abuse by a 'person in authority, in a working place or any other place' is noted, this section does not distinguish child victims from adult victims.

Sri Lankan law directly criminalizes incest. In the Penal Code and its 1995 amendment, incest is defined as "sexual intercourse with another, who stands towards him in any of the following degrees of relationship...",<sup>434</sup> which include biological and adoptive parents and grandparents, children and grandchildren, sisters, brothers, nieces, nephews, aunts, uncles, widows and half-relations. The law applies to both male and female victims, and either males or females may be considered perpetrators. However, this section does not distinguish children from adults.

The 2006 amendment to the Penal Code addresses offences of child sexual abuse facilitated by the Internet, such as procuring a child through chat sites. The amendment imposes responsibility upon computer service providers to ensure that the "computer facility is not used for the commission of an act constituting an offence relating to the sexual abuse of a child".<sup>435</sup> The amendment also imposes a duty upon any person to report to the police any abuse of the child on premises they control or possess.

### **8.2.3 Sexual exploitation in pornography**

Pornography was first addressed in section 286 of the Penal Code 1883, which criminalized possession of 'obscene' books or other articles for sale, distribution or public exhibition. Early legislation, including the Obscene Publications Ordinance No. 4 of 1927 and its amendment act of 1983, enlarged the scope of pornography to include engaging in business related to obscene publications or abetting their sale or distribution. However, these laws did

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<sup>432</sup> International Labour Organization (Coomaraswamy, R. and Satkunanathan, A.), 2006, 'Anti-child trafficking legislation in Asia: A six-country review'.

<sup>433</sup> PC and PCA 1995, Section 345.

<sup>434</sup> PC and PCA 1995, Section 364A.

<sup>435</sup> PCA 2006, Section 286B.

not define ‘obscene’, did not refer to the involvement of children in pornography and imposed light sentences. The Children and Young Persons (Harmful Publications) Act No. 48 of 1956 sought to protect children from publications that could corrupt a child or young person (a child being defined as under 14, and a young person as 14 to 16 years). Its primary purpose was to protect children from exposure to crimes and acts of violence or “any incident of a repulsive or horrible nature”,<sup>436</sup> rather than pornography as such.

The Penal Code (Amendment) Act No. 22 of 1995 directly addressed the influence of pornography on children and the abuse inherent in the production of child pornography. This amendment made criminal any act that would engage a child to “appear or perform in any obscene or indecent exhibition or show or to pose or model for, or to appear in, any obscene or indecent photographs or film”. It also criminalizes parents or guardians who allow their child to be involved in such acts. A person who sells, distributes, publishes or owns child pornographic photographs or films is also liable for punishment. In this act, a child is defined as a person under 18 years according to article 286A (2). While the legislation is commendable for criminalizing the use of children in the production of pornography, the penalties for such are the same as the penalties for owning or distributing child pornography.

The Penal Code Amendment Act of 1998 did not repair this problem, although it added subsections requiring those who develop photographs and films to report the presence of child pornography to the police. Similarly, the Amendment Act of 2005 did not address the seriousness of engaging children in the production of child pornography, although it stated that a “person who provides a service by means of a computer” must ensure that the “computer facility is not used for the commission of an offence relating to the sexual abuse of a child”.<sup>437</sup> However, the terms of this section, such as ‘computer facility’, are unclear vis-à-vis the complex roles in the information technology industry. They may not be sufficient to address, for example, the responsibilities of Internet service providers to limit child pornography. Also, as with other Sri Lankan legislation regarding pornography, the penalties are so minimal that the law is an ineffective deterrent.

## **8.2.4 Other forms of sexual exploitation**

### *8.2.4.1 Prostitution*

Sri Lankan law prohibits the mechanisms surrounding sexual exploitation of a child through prostitution, including procuring a child for prostitution, permitting a child to be on premises for the purpose of sexual abuse and causing ‘the seduction or prostitution’ of a child. However, it does not directly define or forbid sexual intercourse with a child exploited through prostitution – that is, the crime of being a client. While sexual intercourse with a child is punishable under several sections of the Penal Code and its amendments, commercial sexual intercourse of a client with a child is not specifically considered an offence.

Sexual exploitation was insufficiently addressed in Sri Lankan law until the Penal Code Amendment Act of 1995. While the Children and Young Persons Ordinance of 1939 makes it

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<sup>436</sup> Children and Young Persons (Harmful Publications) Act No. 48 of 1956.

<sup>437</sup> PCA 2006, Section 286B.



an offense to allow a child to ‘reside in a brothel’, the penalties are negligible – a maximum of 250 rupees<sup>438</sup> or six months in prison. The Vagrants Ordinance of 1941 forbids causing or encouraging the “seduction or prostitution or unlawful carnal intercourse”<sup>439</sup> with a female child under 16 years, omitting girls aged between 16 and 18 and omitting all boys of any age. In addition to imposing minor penalties on procuring girls for prostitution, the Ordinance is presently used to arrest and imprison children in prostitution for being “common prostitutes found wandering in the streets and behaving in a riotous or indecent manner”.<sup>440</sup>

The prosecution of the crime of procuring children for sexual exploitation through prostitution is reinforced by section 360a of the Penal Code, the Offence of Procuring, which was amended by the PCA 1995 and PCA 1998. This section outlaws the act of, or the attempt to, procure, detain or transport persons, male or female, to become a prostitute or ‘with a view to illicit intercourse’.<sup>441</sup> However, these amendments of the Penal Code are limited in failing to distinguish between children and adults, except for criminalizing the act of procuring a child (defined as under age 16) to leave or enter the country. The original Penal Code had no reference to, or additional penalty for, procuring a child for commercial sexual abuse within the country, and this section denied protection for children between 16 and 18 years. This section was remedied in the 2006 amendment, which adds a sub-section, 360e, criminalizing solicitation of a child (defined as under 18 years) within or outside Sri Lanka for ‘the purpose of sexual abuse’.<sup>442</sup> However, the light penalty of ‘not less than two years’ for the offence remains in effect.

The 1995 amendment to the Penal Code added a specific section on sexual exploitation. Section 360b established penalties for any person who allows a child to be on any premises for the purpose of “causing the child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show”,<sup>443</sup> as well as a person who acts as a procurer of a child for sexual intercourse or “any form of sexual abuse”, by means of influence, threat, violence or provision of money or benefits to the child or his/her family. A child is deemed to be a person under the age of 18, and the law applies to both boys and girls.

The PCA 1998 recognized the reality that children themselves can be hired or coerced into procuring other children for prostitution. It criminalizes any person who “hires, employs, persuades, uses, induces or coerces a child to procure any person for illicit sexual intercourse”.<sup>444</sup> As with other laws, the age of criminal responsibility is 8 years, with the magistrate having discretion to decide whether or not to hold criminally accountable a child between 8 and 12 years of age. There is no reference to lessening the penalties for this offence if committed by children.

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<sup>438</sup> Equivalent to € 1.50, as of 16 March 2010.

<sup>439</sup> Vagrants Ordinance No. 4 of 1941, Section 11.

<sup>440</sup> Vagrants Ordinance No. 4 of 1941, Section 3.

<sup>441</sup> PCA 1995 and 1998, Section 360A.

<sup>442</sup> PCA 2006, Section 360E.

<sup>443</sup> PCA 1998, Section 360B.

<sup>444</sup> PCA 1998, Section 288A.

#### 8.2.4.2 *Exploitation in travel and tourism*

Sri Lanka does not have direct extradition or extraterritorial agreements with other countries, although the judiciary and police cooperate to punish offenders who are arrested under other countries' extraterritorial legislation. For example, Sri Lanka has assisted the deportation of persons arrested under the United Kingdom Sexual Offences Act 2003, under which a person can be prosecuted in the United Kingdom for a crime committed in another country that is viewed as a criminal offence in both countries. Realizing the need to address sexual exploitation in travel and tourism, including the culpability of hotel owners in tourists' exploitation of children on hotel premises, the government in Penal Code Amendment Act 2006 amends section 286A. The revision legally obligates any persons who have "the charge, care, control or possession of any premises being used for commission of an act constituting the abuse of a child" to inform the police authorities of the fact.<sup>445</sup>

#### 8.2.4.3 *Trafficking for sexual exploitation*

The laws on trafficking in the Penal Code have recently been amended to concur with the Palermo Protocol. Previously, the mechanisms of trafficking were inadequately addressed, including only buying, selling, bartering, transporting and procuring a child from care institutions. With the 2006 amendment, the mechanisms of, recruiting, transferring, harbouring, receiving, 'or any other act' were added.<sup>446</sup> The addition of the words 'or any other act' allows the law to address a wide range of recruitment mechanisms that may not be included in the definition. The amendment specifically addresses child trafficking and stipulates that any person shall be guilty of trafficking, if the person 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.<sup>447</sup> In the 2006 amendment, the means of recruitment include the use of threat, force, fraud, deception or inducement, as well as exploiting the vulnerability of another. However, they do not include some common means by which traffickers acquire victims, such as abduction of the victim, or deceiving, causing fear to, threatening or coercing the parent or guardian.

Whereas the exploitation phase was not defined in previous legislation, PCA 2006 includes forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation 'or any other act'.<sup>448</sup> The amendment uses the words 'or any other act' to leave the various forms of exploitation open-ended, as in the Protocol. The markets for trafficked persons are extremely varied and continue to expand, and they can include such situations as camel jockeying and marriage.

The previous Penal Code legislation on trafficking, as of the 1995 amendment, was limited due to its emphasis on the transportation of the trafficked child 'to a foreign country'. This has been addressed in the 2006 amendment, which does not mention the country of

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<sup>445</sup> PCA 2006, Section 286C.

<sup>446</sup> PCA 2006, Section 360C.

<sup>447</sup> PCA 2006 Section 260C.

<sup>448</sup> Ibid.

destination. Thus the law includes both internal and external trafficking. The most significant weakness in the present amendment is the exceedingly soft penalty for trafficking: ‘not less than two years’ for trafficking an adult and ‘not less than three years’ for a child’.<sup>449</sup>

### **8.3 Policy**

The Sri Lankan National Plan of Action on Trafficking in Children (NPATC) is sensitive to the rights of trafficked children. But as with similar documents in South Asia, it has limitations due to its focus on the process of trafficking and its limited attention to contributing causes. It excludes a number of linked protection issues including child sexual abuse, neglect, maltreatment and corporal punishment. The NPATC is divided into four areas of strategic action: legal reform and law enforcement; institutional development and research; prevention; and rescue, rehabilitation and reintegration. The section on legal reform reflects Sri Lanka’s notable continued efforts to refine its legislation, and it directs the government to ratify international instruments and review laws to ensure that they conform to international standards. This section also includes strengthening the justice system on children’s behalf, including establishing juvenile courts and developing child-friendly court procedures. The second section, on strengthening institutional capacity, encourages government and civil organizations to give priority to withdrawing children from sexual exploitation. It states that government agencies should standardize and streamline institutional procedures to increase effectiveness. This section outlines the potential roles of various ministries, the National Child Protection Authority (NCPA) and the police.

Regarding prevention strategies, the NPATC is exceptional in South Asia for recognizing family dysfunction as a key cause of trafficking as well as the common ‘root causes’ such as poverty and lack of education. Although it does not address certain elements of family dysfunction, such as corporal punishment and domestic violence, as contributing causes of trafficking, it does recognize the family’s need for health care and economic and social stability. Community-based development initiatives, such as vocational training, promotion of child participation and NGO microcredit schemes, are all endorsed as means to strengthen the family’s protection of the child.

In its section on protection (that is, rescue, rehabilitation and reintegration), the NPATC attempts to address the excessive institutionalization of children in Sri Lanka by encouraging community and family involvement in rehabilitation. It also aims to improve the reintegration of children to their families and prevent re-victimization of children through protective measures for the family and child. The NPATC seeks to facilitate early intervention in cases of child sexual exploitation by establishing a tracking and reporting system. However, while encouraging both institutional and ‘community-based’ responses, the plan does not identify or encourage the development of family-directed outreach mechanisms from government and civil organizations to provide care, protection and development services to children and their families.

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<sup>449</sup> Ibid.

In 1998, the National Child Protection Authority Act established an interdisciplinary governmental body to address sexual exploitation, trafficking, forced labour and illegal adoption. At its inception, the National Child Protection Authority (NCPA) was a semi-independent authority reporting directly to the prime minister. Its mandate included advising the government on prevention of child abuse and protection of children, recommending reforms for effective implementation of national policy and monitoring the implementation of Sri Lankan law in protecting children from abuse and exploitation. As well as government representatives from the Ministry of Labour, the Probation and Child Care Services Department, police and Attorney General's office, the NCPA also includes psychologists, paediatricians and psychiatrists who promote research on child abuse, support quality rehabilitation and reintegration practices, and work with civil society organizations to mobilize campaigns and training programmes on child abuse in schools and communities.

The NCPA has conducted training programmes for police, probation officers, caregivers and legal authorities on child-friendly court procedures and child interviewing methodologies. It has also produced a guide, 'Interviewing Children: Video Interviewing Manual'. The NCPA has worked with physicians, police and psychologists to collect forensic information on child abuse and has produced a manual for doctors on medical forensic investigation of sexual abuse. To strengthen linkages and referral mechanisms at the community level, the National Child Protection Authority Act dictated the establishment of district child protection committees. These committees, established in 13 districts, coordinated the activities of probation workers, caregivers, police, judiciary and health workers at the local level. Several years ago, however, the NCPA was incorporated into government bureaucracy, and it no longer reports directly to the prime minister. Having lost its autonomy, the NCPA's productive output has diminished in the last few years.

In 2004, the Sri Lanka Tourist Board and the Ministry of Tourism, with UNICEF support, developed a background paper and Plan of Action for the Protection of Children from Sexual Exploitation in Travel and Tourism. The Plan of Action extended for a three-year period, from 2005 through 2007, and included a description of activities to be conducted, budget and timeframe for action. Its strategic objectives included prevention by creating community awareness of sexual exploitation of children through tourism in source areas of the country. It also was meant to create 'cautionary awareness' among tourists that Sri Lanka has zero tolerance for tourism aimed at sexual exploitation of children, and that perpetrators will be arrested and prosecuted using the tourists' home country extraterritorial legislation as well as Sri Lankan law. The Plan of Action encouraged the government – as in the NPATC – to review existing laws and policies and implement new ones to address tourism based on sexual exploitation of children. As with the NPATC, the Plan of Action aimed to coordinate police, social services authorities, district child protection committees and NGOs in tourist areas. Finally, it intended to develop the project management capacity of the Tourist Board.

While this Plan of Action is commendable, it repeats many objectives and actions designated for the NCPA in the National Child Protection Authority Act. These include coordination of local stakeholders, review of legislation and awareness activities for police and community members. At the same time, its provisions for mobilizing the private tourism sector are weak, primarily limited to adherence to a code of conduct and some awareness activities. In

addition, except for local coordination of stakeholders, this Plan of Action does not include the NCPA in its membership or among its implementing partners.

Implementation of the Plan of Action has met with limited success. Research and awareness-raising has been conducted and registration has been strengthened for guest houses and hotels for foreign tourists. However, as with plans of action throughout the region, there has been insufficient involvement of government child protection agencies and limited collaboration between NGOs and the government. NGOs remain the primary actors in addressing tourism aimed at child sexual exploitation. Notably, little has been done to address domestic sex tourism or exploitation of children by local residents, and the exploitation of boys and girls is still perceived as being perpetrated by foreign visitors.

## **8.4 Programme Responses**

### **8.4.1 *Children's participation***

Consultations with children were conducted during development of the National Plan of Action for Children in Sri Lanka. Children raised the issues of sexual abuse, corporal punishment and early marriage and demanded more participation in policy and programme decision-making regarding children's issues. A children's parliament, the Sri Lankan Children's Challenge, took place in 2002. Children from all social strata expressed their concerns about violence and abuse at home and school.

Although there have not been numerous activities to promote children's direct input into policy-making, children's views have been extensively collected by researchers over the years, and this input has informed the development of both programmes and policy. UNICEF has recently supported the Sri Lanka Tourist Board to conduct knowledge, attitude and practice studies related to tourism for child sexual exploitation. In one study, 2,500 school children were interviewed for their knowledge and views on sexual exploitation in travel and tourism.<sup>450</sup> Save the Children, UNICEF and Plan International have supported many activities with local partners to enhance the participation of children and the expression of their views on abuse, corporal punishment and concerns in the home and school.

### **8.4.2 *Monitoring and data collection***

The NCPA monitors abuse cases, carries out investigations and advises the government on child-related issues. ILO has supported the NCPA to establish an anti-trafficking unit, which carries out surveillance to detect incidents of child abuse. The NCPA is expected to coordinate monitoring and data collection of government agencies and NGOs on child sexual abuse and exploitation. Health officials are legally required to report suspected incidents of child abuse and neglect.<sup>451</sup>

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<sup>450</sup> Sri Lanka Tourist Board and MG Consultants, 2007, 'Knowledge, attitudes and practices of school children and their parents in relation to child sex tourism: Final report'.

<sup>451</sup> World Health Organization (Krug, E.G. et al.), 2002, 'World report on violence and health',

UNICEF has supported local NGOs to train community-based organizations and religious leaders to identify victims of family-based violence and provide appropriate support and care for them. Although a large number of cases remain hidden, this initiative has increased awareness, and more cases are being reported.<sup>452</sup> The Department of Police, with the assistance of Save the Children and UNICEF, has produced a handbook on child abuse for police officers, with practical advice on detecting and dealing with different forms of abuse, including sexual abuse. The NCPA has published a teachers' guide on corporal punishment, including how to detect child sexual abuse.

#### ***8.4.3 Legislative changes***

Several NGOs and international organizations, as well as members of the NCPA, government and judiciary, have taken active steps to strengthen the country's legislation. The result is a number of amendments to the Penal Code that more effectively address child abuse and exploitation. The NGOs include PEACE, the Lanka Evangelical Alliance Development Service (LEADS), Centre for Women's Research and Lawyers for Human Rights and Development.

#### ***8.4.4 Prevention through advocacy and awareness-raising***

For many years PEACE has been campaigning against child sexual abuse and exploitation both internationally and within the country. As the local representative of ECPAT International, PEACE has been instrumental in bringing international attention to tourism for child sexual exploitation in Sri Lanka. As well as conducting community-based research and education, PEACE works on awareness and advocacy regarding child sexual exploitation both within and outside tourism at all levels of Sri Lankan society, among children, parents, professionals and legislators.

Eradicating Sexual Child Abuse, Prostitution and Exploitation (ESCAPE) is a project of LEADS. It conducts awareness programmes in schools and training programmes for teachers, social workers, counsellors and others working with children. Don Bosco conducts community outreach prevention programmes to empower families and communities to protect children. The social workers of the NGO Serve conduct awareness-raising activities in schools to reduce physical, psychological and sexual abuse of children.

In partnership with local organizations, UNICEF sensitizes lawyers, police officers, probation officers, doctors and other professionals on sexual abuse and exploitation. UNICEF has worked with the country's police to establish special desks for child abuse and build the capacity of law enforcement officers to provide child-friendly services for abuse victims.<sup>453</sup> UNICEF has also played a significant role in changing community attitudes towards the sexual exploitation of Sri Lankan children. Using television, radio and newspapers in English, Sinhala and Tamil, UNICEF has led a mass media campaign to promote awareness of the

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<sup>452</sup> UNICEF, 2008, 'Real lives: Addressing sexual abuse in Sri Lanka'.  
<[www.unicef.org/infobycountry/sri\\_lanka\\_906.html](http://www.unicef.org/infobycountry/sri_lanka_906.html)>.

<sup>453</sup> UNICEF, 2008, 'Real lives: Addressing sexual abuse in Sri Lanka'.  
<[www.unicef.org/infobycountry/sri\\_lanka\\_906.html](http://www.unicef.org/infobycountry/sri_lanka_906.html)>.

dangers of sexual abuse and the penalties for adults who commit it.<sup>454</sup> The NGO Human and Environment Links Progressive Organisation also mobilizes the media to raise issues of child rights, including sexual abuse, with the public and government.

#### ***8.4.5 Prevention through outreach to vulnerable boys***

Sri Lanka does not have great capacity to provide outreach to vulnerable or exploited boys, particularly those being sexually exploited in prostitution. The country does not have as many children living on the street or boys in exploitive labour as do other countries of South Asia, although girls in exploitive labour, particularly domestic service, are a concern. Consequently, Sri Lanka has not developed street-based outreach interventions to the extent of, for example, Bangladesh. As well, sexual exploitation of boys in prostitution is primarily linked with the tourism industry, and the boys involved in it do not identify themselves as 'victims' needing protection or support. Consequently, direct outreach activities for these boys are scarce.

A number of NGOs, including PEACE and LEADS, conduct awareness and education programmes in vulnerable communities, such as fishing villages, for both parents and children. Several organizations have established drop-in centres in Colombo, including LEADS, which operates a drop-in facility for sexually exploited boys and girls and provides counselling and training. The NCPA established a drop-in centre for children living on the street in Colombo in 2004. The Sanhinda Street Children Rehabilitation Institute in Colombo provides counselling, education, recreation and handicraft training. The Sarvodaya Street Children's Programme, also in Colombo, provides counselling and education and operates a night shelter and a crisis intervention centre.

#### ***8.4.6 Addressing exploitation in pornography***

In Sri Lanka, pornographic criminal acts are identified by both NGOs such as PEACE and by the police and government. Save the Children Norway supports the NCPA to carry out a Cyber Watch Project, and the NCPA has recently established a Cyber Watch Unit that monitors websites patronized by foreign child abusers. Through investigation of websites offering child pornography using Sri Lankan children, the NCPA has apprehended both local and foreign producers of pornography. The activity also monitors suspicious Internet chat rooms in the country.

#### ***8.4.7 Addressing exploitation in travel and tourism***

Multiple players address the sexual exploitation of children in the tourism industry, including NGOs, the Sri Lanka Tourist Board and government protection agencies, including the NCPA, Probation and Child Care Services Department, and women and children police desks. However, NGOs conduct the majority of actions in this area of exploitation.

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<sup>454</sup> UNICEF, 2008, 'Real lives: Addressing sexual abuse in Sri Lanka' <[www.unicef.org/infobycountry/sri\\_lanka\\_906.html](http://www.unicef.org/infobycountry/sri_lanka_906.html)>.

Government actions have been limited, as has their integration with civil society interventions.<sup>455</sup>

According to the 2004 Plan of Action for the Protection of Children from Sexual Exploitation in Travel and Tourism, Sri Lanka Tourist Board<sup>456</sup> has been designated the primary actor in combating sexual exploitation of children in travel and tourism. With UNICEF support, the Tourist Board has supported several knowledge, attitude and practice studies and has created a database of unregistered guest houses and hotels frequented by travelling sex offenders. Few concerted activities by government agencies, including surveillance, law enforcement and prosecution, have taken place in recent years. The focus has been almost entirely on foreign offenders to the exclusion of domestic exploitation. The many girls exploited in the local tourism industry have not been addressed.

However, NGOs in Sri Lanka have campaigned for years to raise local and international awareness of child sex exploitation in tourism and to mobilize government action. PEACE and its counterpart ECPAT International have conducted advocacy activities with international tourism organizations, including the United Nations World Tourism Organization as well as airlines and tour operators, to communicate the message of ‘zero tolerance’ of child sexual abuse to international tourists. PEACE works with the Ministry of Tourism and local tourism organizations to encourage the industry to take a visible stance against child sexual exploitation. Along with other NGOs such as LEADS, PEACE also assists the police in identifying cases of sexual abuse and exploitation, as well as providing police and judicial officers with information and skills to arrest and prosecute offenders and treat victims in a child-friendly way. One helpful action takes place in Negombo, where the Tour Guides Association regulates and registers three-wheel drivers to reduce their role as intermediaries in child sexual exploitation.

#### **8.4.8 Responses to sexual abuse and exploitation**

##### *8.4.8.1 Children’s reporting of abuse*

UNICEF has assisted the Bureau for the Prevention of Abuse of Children, Young Persons and Women to establish a 24-hour hotline to report cases of abuse. Callers receive help, advice and emergency response for sexual and physical abuse, rape, incest and child labour.<sup>457</sup> More than 35 women and children police desks staffed by women officers have been established. These desks investigate complaints as well as take cases to court. Priority is given to domestic violence and child abuse cases.<sup>458</sup>

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<sup>455</sup> Zulfı, A., 2007, ‘Issues of child trafficking in eastern Sri Lanka: A case study of Batticaloa District’; and International Labour Organization (Amarasinghe, S.), 2002, ‘Sri Lanka: The commercial sexual exploitation of children: A rapid assessment’.

<sup>456</sup> Known as the Sri Lanka Tourism Development Authority.

<sup>457</sup> UNICEF, 2008, ‘Real lives: Addressing sexual abuse in Sri Lanka’.  
<[www.unicef.org/infobycountry/sri\\_lanka\\_906.html](http://www.unicef.org/infobycountry/sri_lanka_906.html)>

<sup>458</sup> ECPAT International and South Asia Partnership International, 2003, ‘A situational analysis of child sex tourism in Sri Lanka’.



#### 8.4.8.2 *Safe shelter and crisis response*

Through the Probation and Child Care Services Department, the Government engages in 'rehabilitation' of children through government institutions and registered NGO shelters.<sup>459</sup> Children in prostitution, children living on the street and abandoned children are referred by court order or handed over by local organizations, and many are placed in institutions by parents or guardians. The intention is for children to be rehabilitated through educational programmes, counselling and employment training.

However, as in Bangladesh, the prevalent concept of 'rehabilitation' through institutionalization has not proven beneficial to the majority of children, particularly in institutions operated by the government. Such settings have been shown to be detrimental to young people's well-being and development<sup>460</sup> and the government and most NGOs lack the resources to conduct effective rehabilitation programmes. In addition, parents or guardians have been known to place children in institutions as an alternative to providing care themselves. Government and private shelters and 'orphanages' abound in Sri Lanka, and concern has been expressed about the excessive institutionalization of children.<sup>461</sup> Community-based rehabilitation alternatives have been little explored in Sri Lanka.

The government operates a variety of institutions for children, including certified schools for children older than 12 years and remand homes in which victims of crimes aged 16 or younger are placed for short periods while awaiting presentation before the court or return to their parents or guardian.

Some models of child-friendly institutional care have been developed, including a training and counselling institution in Kalutara district for sexually victimized children, maintained by the Probation and Child Care Services Department and previously supported by ILO. The children, who remain for a year and a half, receive care from child psychiatrists, doctors and vocational training instructors. The NCPA, with the Probation and Child Care Services Department, has also developed a model for institutional rehabilitation. It has been piloted in two centres for trafficked children established by the NCPA, in Negombo and Moratuna.

NGO-operated institutions, referred to as children's homes, serve as the primary residence for the many children institutionalized by the court and civil society groups. Their quality of care varies considerably, from exceptional to inadequate. Most provide adequate food, shelter and education and rudimentary vocational training activities. Few offer professional counselling services. Problems noted in both government and NGO institutions are the intermingling of child criminals and child victims and of young and older children; uniform programming for all children; and lack of funds for physical facilities, medical care and recreational space. Many have poorly trained staff. Discipline, including corporal punishment, is a concern.<sup>462</sup>

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<sup>459</sup> International Labour Organization (S. Amarasinghe), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

<sup>460</sup> International Save the Children Alliance, 2003, 'A last resort: The growing concern about children in residential care'.

<sup>461</sup> International Labour Organization (S. Amarasinghe), 2002, *op.cit.*

<sup>462</sup> International Labour Organization (S. Amarasinghe), 2002, 'Sri Lanka: The commercial sexual exploitation of children: A rapid assessment'.

Despite these challenges, which face government and NGO shelters throughout South Asia, Sri Lanka has some of the best residential care facilities in the region. The Don Bosco Technical Training Centre near Negombo is a regional model for the recovery of boys escaping from sexual exploitation in prostitution. Police, probation and child care services along with courts and NGOs refer abused and sexually exploited boys to the centre, where they receive comprehensive training in carpentry, masonry, welding, auto repair, boat motor repair, computers and other skills, as well as psychological support. Daily life is kind and strict, and the quality of training is superior to that in most technical schools in the country. There is a waiting list of employers seeking to hire boys who graduate from Don Bosco, and the centre has probably the highest success rate in the region for returning sexually exploited boys to normal, productive lives.<sup>463</sup>

Other shelters in Sri Lanka also provide a high quality of care, including a home operated in Wellampitiya by the ESCAPE project of LEADS. The staff is highly trained, particularly in counselling and social work, and provide professional services, including case management for child recovery and reintegration.

#### 8.4.8.3 *Psychosocial care*

As in most of South Asia, counselling and therapy in institutional settings in Sri Lanka are not fully developed. The majority of what are termed ‘rehabilitation’ activities are simply provision of basic education and vocational training.<sup>464</sup> Except for vocational training, rehabilitation is generally addressed to boys and girls similarly; activities do not cater to the specific needs of boys or girls. At the same time, due to Sri Lanka’s relatively long focus on child sexual abuse, counsellors, psychologists, doctors and caregivers have greater awareness of the outcomes of sexual abuse and greater experience working with abused children than many of their counterparts in other countries of the region. Interviews with caregivers in government and NGO shelters in Sri Lanka have shown an adequate knowledge of indicators of abuse, including sexualized behaviours. They have also shown little prejudice against sexually abused children or children in prostitution and considerable practical experience in dealing with the abused, including the very young.<sup>465</sup>

The Community Health Foundation (Sahana Sevana), in Ja-ela, near Colombo, has a small residential facility for adults and children with mental and physical handicaps, including those suffering from sexual abuse. The organization provides counselling and experiential rehabilitation activities, including innovative therapies with very young children who have suffered sexual abuse. SERVE and PEACE provide trained counsellors and social workers in their programmes for abused children, and the Family Rehabilitation Centre in Colombo provides therapy for adults and children by both counsellors and psychologists.

LEADS/ESCAPE, with the support of Save the Children, established a therapy centre in 1997. It provides therapy for abused children and trains caregivers, teachers and parents to

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<sup>463</sup> Frederick, J., 2000, ‘Teaching the boys hard skills: The Don Bosco Technical Centre’. In Frederick, J. (ed). ‘Fallen Angels: The sex workers of South Asia’.

<sup>464</sup> International Labour Organization (S. Amarasinghe), 2002, op.cit.

<sup>465</sup> Frederick, J., 2002, Independent observation of government and NGO shelters during consultancy for ILO.

identify signs of child sexual abuse and take preventive action. LEADS provides professional counselling and social work services to children through its district programmes and at its shelter for abused children in Wellampitiya.

An innovative project for psychosocial health for school children was conducted by Plan International in consultation with Child Helpline International following the 2004 tsunami. 'Happy-Sad letter' boxes were put in 68 schools in the tsunami-affected districts, in which children could post confidential letters expressing their views, questions and concerns. Sexual abuse was among the topics that children most wanted to discuss in confidence. Schools received support to address the concerns expressed by the children. Assessment of the activity showed more interventions against sexual abuse and reduced depression and enhanced mental health among the children.

## 9.0 RECOMMENDATIONS

The Convention on the Rights of the Child contains four general principles or 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 have his or her views heard and taken into account (article 12). These rights need to be considered in all actions to address and prevent child sexual abuse exploitation and trafficking and to assist children who have been abused or exploited. The general measures of implementation are also important guidelines for making the Convention a reality.

Primary consideration should be given to the best interests of the child in all actions concerning the child, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies (article 3.1). ‘The best interests’ determination is a key element of assistance and protection measures for child victims of trafficking and for the design of effective prevention strategies.

Non-discrimination is a fundamental principle in human rights law, including in the Convention on the Rights of the Child, and is a critical dimension in the development of laws, policies and programmes for children. Discrimination is an experience that many children who are victims of sexual abuse and exploitation face and it is also a root cause of violence, abuse and exploitation. Measures should be taken to address discriminatory laws and policies and to ensure that there is equitable accessibility and quality of services available for all boys and girls. This study demonstrates that boys do not always enjoy the same legal rights to be protected from sexual abuse and exploitation as girls and they do not always have same access to services – special measures therefore need to be taken to address this inequality. In addition, the persistent gender discrimination against girls and women also needs to be responded to.

Furthermore, child-friendly information and services must be provided that take children’s diversities into account, such as gender, age, ethnicities and national origin, caste, religion, sexual orientation, disabilities, etc. Awareness and capacity to challenge discrimination should be provided to all stakeholders, including to parents, families and professionals working with and for children.

Boys and girls should be recognized as social agents with the right and capacity to be consulted on matters that affect them, to express their opinions freely and have those opinions taken into account, and to seek, receive and impart information. Children have to be given the opportunity to influence social policies and measures that address sexual abuse and exploitation. Listening to children and learning from their experiences and recommendations are key to designing and implementing effective preventive and protective mechanisms.

## 9.1 Research

### **Prioritize research activities**

- Conduct consultations with government, NGOs, civil society actors (including children and young people) and donor partners to identify knowledge gaps and needs.
- Prioritize and coordinate research activities.

### **Improve quality of research**

- Build capacity of NGOs on research methodologies.
- Promote collaborative research efforts between professional researchers and NGO research teams.
- Establish a mechanism for submitting research drafts for peer review.

### **Develop evidence-based foundation information. The needs include:**

- National quantitative studies on sexual abuse of boys and girls.
- National quantitative studies on sexual exploitation of boys.
- Qualitative studies on sexual abuse and exploitation of boys.
- Studies to examine the linkages between child sexual abuse and sexual exploitation.
- Studies to examine the linkages between vulnerable situations of boys (labour, migration, street living) and sexual abuse and exploitation.
- Studies directed at boys from disadvantaged groups, including ethnic minorities and disabled children.

### **Develop evidence-based information for programme application. The needs include:**

- Children's views and perceptions of sexual abuse and exploitation and of the services available for them.
- Research on gender relations and gender socialization, including construction of masculinity, and information on male sexuality.
- Psychological impact of sexual abuse and exploitation on boys.
- Family unity and dysfunction, roles of mothers and fathers, parenting practices, children's participation in the family.
- Culture-based definitions of sexual abuse, maturity of children and sexual relationships; cultural barriers to reporting; causes of stigma of abuse victims.
- Perpetrators of child sexual abuse and exploitation.

## 9.2 Legislation

### **Assure that national law fully complies with relevant international standards and instruments and is fully implemented by ensuring that:**

- All relevant international human rights instruments are ratified;
- International human rights standards are fully and appropriately incorporated into national law and/or that all national law – civil, criminal, customary and other relevant law – fully complies with them, and that they can be invoked directly and enforced through the courts, including by children and/or their representatives;
- Boys and girls – and in particular children with relevant experiences – are involved in reviewing laws and developing legal frameworks to combat sexual exploitation;

- The legislative framework includes a legislative basis for prevention, for developing appropriate reporting mechanisms for adults and children, and for providing a child-friendly justice system in compliance with international standards;
- The legislative framework requires all those involved in responding to sexual abuse and exploitation to ensure that girls and boys are aware of their right to, and have the opportunity to, express their views and have those views given due weight in all decision making and in all administrative and judicial procedures;
- Capacity-building in implementing and enforcing legislation is provided for all those who are or should be engaged in the process, including in the education, health, welfare, social and criminal justice sectors, recognizing that preventing and responding to sexual exploitation of girls and boys require a multi-sectoral and gender-sensitive approach;
- The legislative framework is backed by necessary resource allocations, requiring detailed budget analysis, and agreed implementation strategies across sectors, specifically for preventing and effectively responding to sexual exploitation of boys and girls.

#### **Clarify legal definitions**

- Amend and harmonize laws to bring them in line with international standards and definitions, including definitions of a child, child trafficking, sexual abuse, sexual exploitation of children, child pornography/child abusive images and sexual exploitation of children in prostitution.

#### **Strengthen legislation related to child sexual exploitation**

- Amend laws to specifically address children in prostitution.
- Ensure that child victims of sexual exploitation are not criminalised.
- Provide appropriate penalties for perpetrators of sexual exploitation of children.
- Provide child-friendly services to girls and boys who are victims of sexual abuse and exploitation.
- Include preventive measures in legislation.
- Ensure that the following activities are penalized under the law:
  - Recruiting a child into prostitution or causing a child to participate;
  - Coercing a child into prostitution or profiting from or otherwise exploiting a child for that purpose;
  - Using a child in prostitution;
  - Attempting or aiding or abetting or any other act of complicity with these offences.

#### **Strengthen legislation related to child trafficking linked to sexual exploitation**

- Review laws and ensure that they conform fully to international standards – in particular to incorporate the definition of trafficking and child trafficking from the Palermo Protocol, addressing trafficking for all forms of sexual exploitation within a human rights framework and respecting the rights of child victims.
- Ensure that trafficked boys and girls up to 18 are not criminalized, including for any offences they commit in relation to their situation as victims of trafficking for sexual exploitation.
- Without impinging on people's right to movement (and migration), take steps to prevent unsafe and risky migration that may lead to trafficking and other forms of exploitation.

- Work to harmonize national laws to ensure protection for child victims of cross-border trafficking who may fall under the legal purview of two or more nations.
- In particular, harmonize legislation in relation to the definitions of trafficking, legal definition of a child, possibility of obtaining compensation for harm suffered by trafficking victims and repatriation measures.
- Ensure that foreign victims have access to refugee determination procedures under the Refugee Conventions and that the principle of non-refoulement is adhered to.

#### **Amend legislation to protect boys**

- Amend laws to provide boys with legal protection from abuse and exploitation equal to girls, including legal recognition of rape, sexual harassment and sexual exploitation in prostitution.

#### **Enact sexual abuse legislation**

- Enact comprehensive legislation that clearly defines sexual abuse in accordance with international standards and provides boys and girls with protection from all forms of sexual abuse, including that perpetrated by women and family members.

#### **Enact child pornography legislation**

- Enact comprehensive legislation that clearly defines child pornography in accordance with international definitions.
- Ensure the following aspects of pornography are penalized: production; offering and making available; distributing or transmitting; procuring for oneself or another person; possessing; knowingly obtaining access and viewing sexual abuse representations through information and communication technologies; intentionally recruiting, causing or coercing a child to take part in pornographic performances; profiting from or otherwise exploiting a child for this purpose; knowingly attending pornographic performances involving the participation of children and attempting, aiding or abetting these offences; and advertising in any way child exploitation in pornography and child abuse images.
- Prohibit grooming – making intentional proposals by an adult, including through the Internet, to meet a child under the age of consent for sexual purposes.

#### **Establish jurisdiction over sexual exploitation offences by country. Each country should have jurisdiction over such offences, including when committed:**

- On its territory or on ships flying its flag or aircraft registered under its laws;
- By one of its nationals or by persons having habitual residence in its territory, or in other territories;
- In other territories against a child who is a national or has his/her habitual residence in the State's territory.
- Ensure that extraterritorial legislation is not limited by the 'double criminality' condition – requiring that such acts are also criminalized in the State where they took place. Such conditions should be removed urgently to tackle impunity of perpetrators.

#### **Protect boys in institutional, street and labour settings**

- Enact legislation to protect children from abuse in government and NGO institutions, including remand homes and prisons, schools, formal and informal labour settings and on the street.

### **Report and investigate crimes against children**

- Establish comprehensive legal procedures for reporting, investigating and prosecuting crimes related to child sexual abuse and sexual exploitation.

### **9.3 Policy**

#### **National policy on child sexual abuse and exploitation**

- Amend existing policies or develop a national policy framework with clear strategies to prevent and protect children against sexual abuse and exploitation
- Include sexual abuse and exploitation in national plans of action for children.
- Link action plans with overall national development plans.

#### **Affirmative provisions for boys in policy**

- Amend existing national and state policies and action plans to mainstream boys' issues, with attention to relevant areas of vulnerability, such as child labour, migration and street living.

#### **National child protection mechanisms**

- Establish nationally coordinated, community-based and integrated child protection schemes involving children, families, the community, government agencies, civil society organizations and service providers.
- Strengthen national child protection systems to prevent and respond to violence, abuse and exploitation of girls and boys.

#### **Child participation in policy development**

- Create mechanisms to ensure the participation and voice of children in the development of policies and action plans on their behalf.

#### **Implementation of policies**

- Develop comprehensive implementation strategies involving all stakeholders, including ministries, donor partners, civil society actors and children and adolescents, with appropriate indications of funding, time frame and work plans to address child sexual abuse and exploitation.

#### **Data collection and monitoring**

- Develop and implement systematic, disaggregated national data collection and research, including databases, baseline studies and progress indicators.
- Establish uniform systems for monitoring incidents of child abuse and exploitation from the national level.

#### **Reporting of abuse and exploitation**

- Establish and support mechanisms for reporting abuse and exploitation. Service providers and others in regular contact with children should be aware of them and trained to use them effectively. The general public should be able to report suspected or real cases of abuse and exploitation of children without fear of repercussions. Follow-up (including investigations, as necessary) should be timely and effective and sensitive to the needs and rights of those affected.



- There should be mechanisms in place for children to report suspected or real cases of abuse and exploitation and these must be child- and gender sensitive. Follow-up by professionals should be timely and child- and gender-sensitive.
- Coordination among stakeholders.
- Establish collaboration agreements, protocols and viable networks to build coordination and service referral for victims among government agencies, civil society organizations and service providers.

### **Family unity and capacity**

- Focus policies on (1) building family capacity to protect and care for children, including livelihood options; (2) building knowledge of child rights, child development, child participation and child protection issues; and (3) health care and social intervention services.
- Give special attention to disadvantaged communities, minorities, indigenous groups and households headed by females and children.

### **Institutionalization of children**

- Establish policies that reduce the number of children in institutions by developing family care and community-based alternatives.

### **International cooperation**

- Promote international cooperation through coordination among international organizations.
- Increase the focus on sexual abuse and exploitation of boys through development aid.

## **9.5 Programming**

### **Expand awareness of sexual abuse**

- Conduct awareness campaigns in schools, communities and families, with children's participation and the assistance of national media, on sexual abuse and related issues, including gender discrimination and imbalance, children's rights and harmful traditional practices, among others.
- Provide information and education on sexual health and sexual abuse in schools and in training curricula for professionals, including social workers, teachers, police, health practitioners and journalists.

### **Address sexual exploitation in pornography**

- Ensure the existence of a national specialized law enforcement entity dedicated to investigating Internet-facilitated crimes against children and to identifying victims of child sexual exploitation.
- Establish national specialized units to work in cooperation with other national units on child pornography, through Interpol, with images of child sexual exploitation to be shared through the International Child Sexual Exploitation database as material evidence of a crime.
- Require Internet service providers to report child abuse images and block access to sites including them.
- Establish administrative regulation of cyber cafes and other places where computers are available to the general public, including specific measures to protect children and adolescents, which may take the form of a standard or code of conduct.

- Use the readily available Child Sexual Abuse Anti-distribution Filter to block access to websites containing child sexual abuse images.

#### **Establish comprehensive reporting mechanisms**

- Develop comprehensive nationwide reporting mechanisms and response services for abused and exploited children through hotlines, the Internet and other means in public places, communities, schools, prisons, institutions and workplaces.

#### **Expand awareness of boys' issues and male gender issues**

- Conduct awareness campaigns at all levels to raise awareness of the issues surrounding abuse and exploitation of boys and male gender relations, masculinity, power abuse and sexual violence.
- Provide information and education on boys' issues and male gender issues in schools and in curricula for professionals.

#### **Expand boys' participation**

- Create opportunities for boys to participate in matters that affect them and express their concerns and views.
- Build leadership skills through the development of boys clubs and forums and the integration of boys into community and NGO programme activities.

#### **Establish programmes and information for boys**

- Develop programmes and provide information for boys on gender, masculinity, sexual development, health, parenting and other issues to assist them to clarify their roles in society, challenge gender discrimination and address child abuse.

#### **Develop outreach to boys separated from their families**

- Develop drop-in services and outreach mechanisms directed at boys in street, labour and migration settings.
- Establish networks using peer educators and outreach workers to identify and support vulnerable boys and boy victims of sexual abuse and exploitation.

#### **Ensure that boys have access to services**

- Develop boy-friendly integrated services for sexually abused and exploited boys, including training and capacity building of government and non-governmental organizations to assist boy victims.
- Conduct training for health professionals, caregivers and law enforcement to reduce discrimination and hostile attitudes towards boys, particularly those in prostitution and those with alternative sexual identities.

#### **Provide psychosocial care for boys**

- Develop outreach activities, care facilities and follow-up services for boys, and train caregivers and health professionals in their special needs.
- Develop counselling, vocational and life skills programmes tailored to boys' needs.

#### **Strengthen family support systems**

- Develop programmes to intercede with families, particularly those in especially difficult circumstances, including female-headed households, disadvantaged and minority groups, and families with children with disabilities.

- Develop interventions to address family dysfunction, including domestic violence, abuse and alcoholism.
- Assist families to build their awareness of child vulnerability, keep children in school and increase household income.

### **Strengthen community protection**

- Establish community-based protection networks for boys and girls, with emphasis on building community ownership, creating vigilance on abuse and exploitation, reducing risk factors for children, and addressing social and economic inequalities.

### **Reduce abuse in the schools**

- Conduct programmes in schools to create child-friendly learning environments.
- Provide training to children and teachers on sexual health, sexual abuse, gender relations and related issues.
- Establish codes of conduct and protection policies for schools.
- Train teachers in positive discipline skills and ways to identify and respond to cases of sexual abuse.

### **Establish boy-friendly judicial processes**

- Develop guidelines for investigating the sexual abuse and exploitation of boys.
- Provide boy-sensitive training to police, judges and lawyers on how to work with, communicate with and support vulnerable children, particularly boys.

### **Strengthen programme development**

- Provide the training, time and resources to allow adequate situation assessment, strategy development, budget formulation and programme design.
- Involve children in programme design and development.

### **Strengthen programme management and implementation**

- Provide training and require both donors and recipients to ensure adequate monitoring and evaluation of programmes.
- Provide training and technical supervision to ensure comprehensive management of human and physical resources.
- Involve children in programme monitoring and evaluation.

### **Strengthen human resources**

- Establish job competencies and training standards for all persons working with abused and exploited children.
- Develop comprehensive training programmes based on certifiable skills development.
- Develop mechanisms for monitoring work quality and addressing the needs of staff, particularly in situations where staff are working directly with children.

### **Mainstream quality programming**

- Disseminate quality practices through the exchange of skills and experiences.
- Improve the identification of good practices.
- Adapt viable practices to diverse cultural and social contexts to bring them up to scale.

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