



Global Monitoring



Report on the
status of action against commercial
sexual exploitation of children

INDIA



This publication has been produced with the financial assistance of the Swedish International Development Cooperation Agency (SIDA) and the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg, the Ministry of Foreign Affairs of France, Groupe Développement and ECPAT Luxembourg. The views expressed herein are solely those of ECPAT International. The support received from SIDA, the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg and the Ministry of Foreign Affairs of France does not constitute endorsement of the opinions expressed.



GRAND-DUCHÉ DE LUXEMBOURG
Ministère des Affaires étrangères



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Printed by: Saladaeng Printing Co.Ltd.

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Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

ATSEC: Action against Trafficking and Sexual Exploitation of Children

CACL: Campaign against Child Labour

CACT: Campaign against Child Trafficking

CBI: Central Bureau of Investigation

CBO: Community-based organisation

Code of Conduct: A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

CPHCSA: Centre for Prevention and Healing of Child Sexual Abuse

CRC: Convention on the Rights of the Child

CSA: Child sexual abuse

CSE: Commercial sexual exploitation

CSEC: The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

CST: Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

CWC: Child Welfare Committee

DHS: Department of Health Survey

DIC: Drop-In-Centres

DWCD: Department of Women and Child Development

ECPAT: End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

EU: European Union

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

ICDS: Integrated Child Development Scheme

ILO: International Labour Organization

ILO/IPEC: International Labour Organization/ International Programme on the Elimination of Child Labour

IRWPA: Indecent Representation of Women (Prohibition) Act

ISP: Internet service provider

ITA: Information Technology Act

ITPA: Immoral Trafficking Prevention Act

JCBC: Joint Cross Border Committee

MWCA: Ministry of Women and Children's Affairs

MWCD: Ministry of Women and Child Development

NCLP: National Child Labour Projects

NGO: Non-governmental organization

NICP: National Initiative for Child Protection

NIPCCD: National Institute of Public Cooperation and Child Development

NHRC: National Human Rights Commission

NPA: National Plan of Action

NUJS: National University of Juridical Sciences

PNDT: Pre-Natal Diagnostic Techniques

SAARC: South Asian Association for Regional Cooperation

SAFAHT: South Asia Forum against Human Trafficking

SAF-VAC: South Asia Forum on Violence against Children

SAPAT: South Asia Professionals against Trafficking

STIs: Sexually transmitted infections

STOP: Stop Trafficking and Exploitation of Women and Children

UNICEF: United Nations Children's Fund

UNIFEM: United Nations Development Fund for Women

UNODC: United Nations Office of Drugs and Crime

WHO: World Health Organization

Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

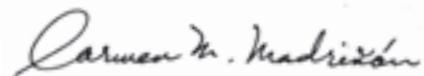
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán
Executive Director, ECPAT International

Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); and (vi) priority actions required.



INDIA

The commercial sexual exploitation of children (CSEC) in India exists on a large scale and in many forms. One of its main manifestations is the trafficking in children for commercial sexual exploitation, and India is a significant source, destination and transit country in this regard.¹ Ongoing conflicts and lack of livelihood options, combined with the high profit of brothel owners fuelled by the demand for young girls (possibly resulting from the fear of contracting HIV/AIDS from older and more experienced girls) have contributed to the increase in trafficking over the years.² Children are trafficked into India from Bangladesh and Nepal, and through India to Pakistan and the Middle East.³ Though the exact numbers are not known, it is estimated that between 5,000 and 7,000 Nepalese girls are trafficked into India for sexual exploitation every year.⁴

The open borders between the neighbouring countries make it easy for traffickers to infiltrate the entry points (Raxaoul, Bairgania, Motihari, Jogbani, Madhuvani) along the Bihar State of India.⁵ Similarly, it is estimated that 200,000 Bangladeshi children have been trafficked for sexual exploitation through the borders of West Bengal and Assam States.⁶ Research shows that “extreme poverty, floods, cyclones, landlessness and demand for dowry” are among the main causes for the high incidence of trafficking/migration from the areas of Jessore and Satkhira in Bangladesh.⁷ According to the same study, these girls are usually forced to work in brothels and nightclubs in Kolkata and Mumbai or enter into coerced marriages in Uttar Pradesh.⁸

According to International Labour Organization (ILO) estimates, 15 per cent of India’s estimated 2.3 million commercial sex workers are children.⁹ They are sexually exploited in brothels, massage parlours, nightclubs, beauty salons, hotels, escort services, private houses known as ‘madhu charkas’ as well as at railway stations, bus stations, streets, public parks and more recently in circuses.¹⁰

However, the majority of trafficking in underage girls for sexual exploitation happens within the country.¹¹ Children are trafficked to and from states such as Andhra Pradesh, Bihar, Karnataka, Uttar Pradesh, Maharashtra, Madhya Pradesh, Rajasthan and West Bengal. For instance, among the 23 districts of the State of Andhra Pradesh, 16 are identified as sending districts.¹² Similarly, in the State of Bihar, 24 out of 37 districts are highly affected by trafficking in women and children.¹³ Rajasthan is also a major source State, where 27 out of 32 districts are found to be affected.¹⁴

In 2005, the National Human Rights Commission (NHRC)¹⁵ estimated that almost half of the children trafficked within India are between the ages of 11 and 14; they are subjected to physical and sexual abuse and kept in conditions similar to slavery and bondage. Debt bondage is one of many strategies used by exploiters to keep children in constant servitude. Girls are forced to serve an average of seven 'clients' per day and have no say in the choice of the customer or the use of contraceptives.¹⁶ Interviews with the trafficked girls showed severe impacts on their health, with 32.3 per cent of respondents suffering from diseases such as HIV/AIDS, sexually transmitted infections (STIs) and other gynaecological problems.¹⁷ Having no legal documents/identity makes the victims highly vulnerable to threats of apprehension by authorities, extortion, detention, prosecution and deportation.¹⁸

High incidence of re-trafficking of rescued children

A report by the HAQ-Centre for Child Rights in India presents enough evidence to suggest that a significant number of girls rescued from commercial sexual exploitation are re-trafficked, which exposes serious flaws in existing programmes on rescue, return, rehabilitation and reintegration of victims. Non-acceptance by their families and communities, lack of alternative sources of income or livelihood options and increasing demand for young girls from brothel owners contribute to the re-trafficking of victims.¹⁹

The trafficking of girls for marriage is prevalent, especially in the States of Punjab and Haryana, as highlighted in a study conducted by local organisation Sakti Vahini; another study revealed a well-established market in Uttar Pradesh for 'purchased' Bangladeshi wives.²⁰ Although the *Child Marriage Restraint Act* set the minimum age of marriage for women at 18, the Department of Health Survey (DHS) stated that 33.8 per cent of the girls aged between 15 and 19 are currently married. Exact figures are difficult to ascertain as many of the marriages are not registered or officially recognised. Each year, during the Hindu festival of Askhay Tiritiya, thousands of child marriages are reported in Madhya Pradesh, Chhattisgarh and Rajasthan.²¹ Child marriages are often arranged and negotiated

for financial benefit in cash or in kind by a third party and, inasmuch as these arrangements provide access to children as sexual partners, they can be categorised as a form of CSEC. In many cases, the families are unaware of the financial transactions involved but feel pressured to agree to such cross-border marriages due to the high cost of dowries (that is, the price the girl's parents have to pay the groom's family at the time of marriage, which is much less for younger girls).²² After marriage, these girls are often exploited, used as domestic servants and as free or cheap agricultural labour, abused and kept in isolation or even resold to other 'buyers' to suffer further sexual abuse and exploitation.²³ Rural girls (especially those from the poorest families and not attending school) are three times more likely to be married earlier than their urban counterparts, according to a UNICEF study. The study also found that domestic violence was highest, at 67 per cent, among girls who were married before the age of 18.²⁴ Many such girls flee from their husbands or are subsequently divorced or widowed, becoming extremely vulnerable to commercial sexual exploitation.

Research conducted in 2003 by ECPAT International and Equations, its affiliate group in India, highlighted the increase of child sex tourism in India.²⁵ Offenders include foreign tourists and local citizens. It is important to note the local demand for sex tourism, as the general perception is that only foreign tourists engage in child sex tourism and there is either ignorance or total denial of the local demand for child sex. Ways in which offenders gain access to children vary from directly approaching children on the beach by offering them a drink or a meal and taking them back to their hotel or going through intermediaries, such as shack owners or taxi drivers.²⁶ Aside from Goa, there have been reported cases of child sex tourism in Mumbai, Kerala, Kolkata, Pondicheri and other popular tourist destinations. A report released by the Institute of Social Sciences in New Delhi warned of India becoming a destination for paedophiles in the so-called 'Golden Triangle' of Delhi, Agra and Jaipur. Similarly, there have been media reports of the popular 'house boats', which are used for sexual exploitation of children in the State of Kerala.²⁷ In some cases, the hotels are linked with such illicit activities or are aware of cases of individuals regularly abusing street children, as reported by Sanlaap, an ECPAT member group, in Kolkata. Bringing these hotels to the attention of law enforcers has proven difficult given the lack of strong witness reports that provide evidence for use in a court of law.

Documented evidence on the scale of the production, use, downloading and distribution of child pornography is insufficient. Nevertheless, in many cities child pornography materials, such as videos, are openly sold in designated areas.²⁸ Given the increase in low-cost Internet access throughout the country, exposure to online pornography is very likely

to be augmented. A recent study by the NHRC²⁹ found that traffickers are using women and children for pornography and prefer teenage girls for this purpose. The report further found that trafficking for the production of pornography takes place in Kerala, Karnataka, Tamil Nadu, Andhra Pradesh, Maharashtra and Bihar. Children from Karnataka, Andhra Pradesh and Madhya Pradesh are also trafficked to other countries, such as the United Kingdom, Korea and the Philippines, and to the Gulf States for pornographic purposes.³⁰

Prevalence of sexual exploitation of boys

An ECPAT regional situational analysis on the prostitution of boys demonstrated that this is not a new issue in many countries in South Asia, including India, where recognition of the problem is slowly emerging. Such exploitation occurs in locales such as streets, markets, bus terminals, hotels, restaurants and religious establishments. A large number of boys living on the streets are victims of sexual exploitation, and the average age of boys being forced into exploitation is approximately 12.5 years or younger. The majority of sexually exploited boys have experienced sexual abuse prior to their entrapment into prostitution. The magnitude of the problem is not known since many of the cases are unreported or misreported due to the stigma and shame attached to this type of crime. The research indicated that the clients are predominantly bisexual or heterosexual men. The commercial sexual exploitation of boys among transgender communities in Mumbai - the 'hijras' - was also highlighted. On the other hand, Hyderabad presents a high percentage of female exploiters, most of them widows, single women or women whose husbands work outside of Hyderabad. It was also noted that boys who perform at weddings and other celebrations are subsequently subjected to sexual exploitation: in particular, a large number of boys from different parts of West Bengal are taken to the states of Bihar and Uttar Pradesh to be exploited in this manner.

Sexual exploitation of children in India is also linked to a number of religious beliefs and traditional malpractices. As such, the prostitution of children is accepted in some communities through the practice of Devadasi or Jogini, whereby young girls who are offered in sacrifice to the gods to fulfil religious obligations go to live in temples and are used in prostitution. Although these practices were banned by the *Prohibition of Dedication Act 1982*, there are reportedly still many Devadasis in the States of Bihar, Andhra Pradesh and Tamil Nadu. Similarly, women and children of certain tribes (such as Bhil, Garasatya, Kulbeliya, Banjara and Jogi) and scheduled castes³¹ (Nayak, Baori, Damami, Sikhlingar and Mazhbi) in the State of Rajasthan are involved in culturally-sanctioned prostitution.³²

Children from ethnic minorities highly affected by CSEC

Children from disadvantaged communities and ethnic minorities, such as scheduled castes and tribes, are particularly vulnerable to sexual exploitation and trafficking. According to the India Centre for Indigenous and Tribal People, more than 40,000 tribal women and children (mostly from the States of Orissa and Bihar) were forced into economic and sexual exploitation due to their marginalisation and lack of access to resources.³³ Moreover, Sanlaap recently completed a study in Madhya Pradesh and Uttar Pradesh States focusing on tribal communities that are dependent on the prostitution of their own children, mainly girls. The study indicated that some of these communities buy children and bring them up as their own with the objective of prostituting them, particularly in metro stations. In Kolkata, some communities are buying one brothel after another, as exploiting children in prostitution is an incredibly profitable criminal activity. There are very few governmental programmes or NGOs supporting these groups of children; while the government's Tribal Development Programme has a special scheme called JABALI, the allocated funds are underused as very few NGOs work with these communities and are therefore unable to implement the scheme.

India has also seen cases of sexual exploitation of children in shelters and in the streets by nationals and foreigners.³⁴

India adopted the *Stockholm Declaration and Agenda for Action* and reaffirmed its commitment in Yokohama in 2001.

NATIONAL PLAN OF ACTION (NPA)

The *Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children* was developed as a direct consequence of a July 1997 Supreme Court decision that mandated India to undertake such a plan.³⁵ The Central Advisory Committee on Child Prostitution monitors the overall NPA implementation, while State Advisory Committees have been constituted to do so at state level. Both Central and State committees comprise members from selected local and international non-governmental organizations (NGOs), bodies such as the United Nations Children's Fund (UNICEF) and the United Nations Office on Drugs and Crime (UNODC), women's commissions, senior police officers and social welfare directors. The committees issue regular reports, put questions to authorities on action being taken in the States, disseminate information and hold meetings every three months, all of which has ensured good coordination to implement the NPA. However, State Advisory Committees do not yet function in all states and still need to be established in Madhya

Pradesh and Rajasthan in particular, areas that are highly affected by child trafficking, child marriage and child labour. Action plans have not yet been prepared in all states, and the budget allocated for the NPA implementation at central and state level remains very low (although some steps have been taken to address budget inadequacies).³⁶

More recently, the Central Advisory Committee on Child Prostitution drafted a set of guidelines entitled Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women outlining the framework and the roles of the various stakeholders (government, commissions and the private sector) in addressing this issue. Under this Plan, the Ministry undertook a series of studies in collaboration with UNICEF with a focus on the rescue and rehabilitation of child victims of trafficking or commercial sexual exploitation (CSE) and formulated a *Protocol for Pre-Rescue, Rescue and Post Rescue Operations of Child Victims of Trafficking for CSE*. Three manuals were also developed: the *Manual for the Judicial Workers on Combating Trafficking of Women and Children for CSE*; developed in cooperation with the National Human Rights Commission, the *Manual for Medical Officers for Dealing with Child Victims of Trafficking and CSE*; and the *Manual for Social Workers Dealing with Child Victims of Trafficking and CSE*. Moreover, a bill to further amend the *Immoral Traffic (Prevention) Act 1956* was submitted to the Parliament for approval in November 2006, calling for greater clarity in the definition of trafficking and higher penalties for offenders, including those who visit brothels.

The State Advisory Committees have initiated steps to improve liaison with Special Police Officers, set up advisory boards of social workers and NGOs in red-light districts, conducted regular raids and taken measures for the protection and rehabilitation of rescued persons.

The former Department of Women and Child Development (DWCD), which was renamed the Ministry of Women and Child Development (MWCD), prepared a *National Plan of Action for Children* (2005) which includes goals, objectives and strategies to fight child sexual exploitation, trafficking and pornography and is implemented through State Plans of Action for Children.³⁷ The MWCD works closely with the Central Advisory Committee on Child Prostitution as well as with NGOs.

Child protection still not prioritised³⁸

A budget analysis recently conducted by the MWCD revealed the alarmingly low level of funds allocated for child protection. The total share for child protection in the Union Budget for 2004-2005 was only 0.030 per cent and 0.034 per cent for 2005-2006, while the budget estimates for 2006-2007 remained the same. Such meagre resource allocation reflects the low priority the child protection sector has received from the government, resulting in scanty State intervention and inadequate implementation of relevant action plans. A close examination by the MWCD of existing child protection schemes further revealed many shortcomings and gaps in the infrastructure and implementation of services for children, which calls for urgent attention, especially considering that 40 per cent of the total population in India is under the age of 18.

COORDINATION AND COOPERATION

Local and National Level

The structures set up for coordination and cooperation towards the implementation of the *Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children* have been very effective in improving coordination against CSEC. They also provide an open forum for NGOs to speak about their work and challenges encountered.

The National Commission for Protection of Child Rights, under the MWCD, carries out an Integrated Child Development Scheme (ICDS), which involves strengthening institutional structures, capacity building of caretakers, drafting appropriate legislation and ensuring convergence of existing child protection programmes, such as the *Juvenile Justice (Care and Protection) Act* and the *Child Labour Act*. Under the ICDS, a separate and independent nodal agency focusing on the rights of abused and trafficked children was established. In addition, the Department of Social Welfare set up a separate section for children.

There are several NGO networks working to combat child trafficking, such as the Action against Trafficking and Sexual Exploitation of Children (ATSEC), Campaign against Child Trafficking (CACT), Campaign against Child Labour (CACL), the CHILDLINE India Foundation and the National Initiative for Child Protection (NICP).³⁹

Child protection database being developed

The Ministry of Women and Child Development, with support from UNICEF, is developing a system for child protection data management and reporting, which will also capture data on missing children, child trafficking and CSEC. It will be a centralised information system, with information flowing from districts and then from states, through a web-enabled data management system within the National Institute of Public Cooperation and Child Development (NIPCCD) and at State and District Child Protection Units. Once the database is fully operational, NGOs will also be able to feed their data into the same databank. A national website for reporting and sharing information on missing children and assisting with tracing, rehabilitation and repatriation is also being developed. The website will be linked to the State and District Child Protection Unit, all police stations and CHILDLINES.⁴⁰

Regional and International Level

Far greater effort is needed to establish measures for structured coordination with other governments in the region to address the pervasive trafficking in women and children for sexual purposes. In particular, work along the border areas with Bangladesh is seriously compromised because NGOs are not allowed to work in close proximity. Sanlaap reports that they continuously rescue Bangladeshi children trafficked for prostitution and other purposes; however, what happens to these children once they are returned to Bangladesh is unknown as there are no support structures on the Bangladesh side of the border. UNICEF recently conducted a study to examine and propose measures to establish bilateral agreements between India and Bangladesh to address the current deficiencies in the repatriation system. The study highlighted the system of repatriation used by Sanlaap, which takes into account the legal issues involved and provides for a holistic approach involving relevant care and support structures. It is expected that, with UNICEF's assistance and cooperation from the Governments of India and Bangladesh, the proposed new system will soon be institutionalised. At the same time, the relative lack of initiatives and international coordination to combat other forms of sexual exploitation of children, such as child pornography and child sex tourism, must be noted.

The Ministry of Women and Child Development has undertaken regional efforts, in alliance with NGOs, to create greater awareness of the dimensions of trafficking and to increase sensitivity to the needs and rights of victims among government departments, the police and the judiciary as well as within civil society at large. For example, sensitisation meetings were organised for the police in States adjoining Nepal and Bangladesh, from where there is a considerable amount of trafficking taking place.⁴¹

The Joint Cross Border Committee (JCBC), comprising government officers, district administrators, police personnel, social workers and NGO representatives from India and Nepal, works to identify traffickers and rescue trafficking victims. A Joint Network Committee of Journalists from Nepal and India (comprising six members: three from Nepal and three from India) has been formed to support this initiative and conduct investigative journalism along the Indo-Nepal border.⁴²

The South Asia Professionals against Trafficking (SAPAT) and South Asia Forum against Human Trafficking (SAFAHT) are two international forums that were created by various stakeholders under the initiative of the United Nations Development Fund for Women (UNIFEM). SAPAT is a forum of professionals, including law enforcement officials, medical and legal professionals, counsellors and international agencies. Activists, NGOs and community workers committed to the cause of anti-trafficking constitute the SAFAHT.

The South Asian Forum against Violence against Children (SAF-VAC)

As a mechanism for implementing the recommendations of the UN Study on Violence against Children, the South Asian Forum against Violence against Children was established by a ministerial level agreement between the governments of Afghanistan, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka in collaboration with regional NGOs and children's organisations. A Secretariat was formed and a Coordinator appointed. The SAF Secretariat, currently hosted by the Government of Pakistan, will rotate among the SAF member governments every two years. One of the main functions of the Secretariat is to facilitate exchange of information and resources, including through regional ministerial and technical meetings, and to support and monitor progress in the implementation of the Forum's activities. The Forum's first regional meeting was convened in July 2006 and focused on the physical and psychological punishment of children and early marriage. A Children's Forum was also organised to enable children and young people to provide inputs to the meeting.

PREVENTION

India has a large number of NGOs working to prevent CSEC and provide care and rehabilitation to child survivors of commercial sexual exploitation. While some commendable initiatives have been undertaken by the Government to improve the general welfare of children in India, there is an urgent need for more systematic and structured action, particularly to raise awareness on CSEC, undertake action research and provide quality psychosocial services. Furthermore, while there have been considerable efforts to combat trafficking in children, this has resulted in less attention being given to action against other forms of commercial sexual exploitation of children, particularly child pornography.

In 2003, the State of Andhra Pradesh passed an order to address trafficking, which led to the development of an anti-trafficking campaign and the formation of core committees at the district level comprising the District Magistrate, the Superintendent of Police, the Agency of Women Development and Child Welfare and NGO representatives. Such committees monitor the situation and also formulate and implement initiatives to care for child victims.⁴³ Similar committees are being formed in several other states.

The United Nations Office on Drugs and Crime, in collaboration with NGOs and police departments in eight states, has planned, funded and organised a sensitisation and training programme to tackle child trafficking and prostitution.

The Youth Partnership Project for Child Victims of Commercial Sexual Exploitation in South Asia (YPP)

In 2005, ECPAT International initiated the 'Youth Partnership Project for Child Victims of Trafficking' on the border areas linking India, Bangladesh and Nepal. The project, supported by Christian Aid and Comic Relief, provides youth with structured channels for their participation in peer support programmes, community awareness campaigns and public advocacy. It is primarily undertaken by child survivors and at-risk youth, who have opportunities for learning and skills development to enable them to play an active role in combating CSEC. The project is being coordinated by the ECPAT International Secretariat based in Thailand, in cooperation with Aparajeyo-Bangladesh, Sanlaap India and Maiti Nepal.

With support from the European Union (EU) and Groupe Developpement, a prevention programme was undertaken in 10 districts of West Bengal to improve the capacity of 30 organisations to prevent trafficking, as well as to provide crisis intervention, legal aid

and other support to vulnerable children and victims of trafficking. The first phase of the programme was completed in a three-year timeframe and a second phase is expected to begin this year. Similar projects are being undertaken in other states.

In addition, the NGO Manav Seva Sansthan (SEVA), based in Gorakhpur, is engaged in the prevention of cross-border trafficking in women and children along the Indo-Nepal border. With the help of the NHRC, it set up rights awareness cells in three locations near the border to inform migrants of their rights and how to address the risks associated with migration. The Directors General of Police of Uttar Pradesh, Bihar and West Bengal have been instructed to extend help and cooperation to the initiative.⁴⁴ Organisations from border districts are soon to meet in Kathmandu to plan the work to be undertaken in this regard, with support from UNICEF and UNODC.

The Indian NGO sector: a key player in combating CSEC

The NGO Stop Trafficking and Exploitation of Women and Children (STOP), based in New Delhi, focuses its efforts on prevention, rescue and rehabilitation of trafficked women and children. STOP has facilitated the creation of community-based Joint Regulatory Boards to monitor and mobilise action against trafficking, including in brothels. Sanlaap, in Kolkata, provides shelter, counselling and vocational training for child survivors of prostitution and trafficking. Sanlaap also runs child protection programmes in 14 red-light districts in the city and works closely with the State Women's Commission, particularly for the sensitisation of female members of the Panchayat (the local self-government in West Bengal). The HAQ-Centre for Child Rights, also in New Delhi, has coordinated a national campaign against child trafficking and monitored parliamentary debates on child rights issues. Equations, in Bangalore, has conducted research and lobbying to fight child sex tourism. The Prerana Anti-Trafficking Center of Mumbai is a research, documentation, training and information dissemination centre that also provides direct care services to children in red-light districts. Arz, an NGO working in the Baina red-light district in Goa, has successfully rescued several young children trafficked from different parts of the country. Prajwala in Andhra Pradesh and the Odanadi Seva Trust in Karnataka are also working to address child trafficking. All these organisations work in close collaboration.

Awareness of sexual exploitation of children in tourism destinations and efforts to protect children from exploitation are being stepped up in some parts of the country. In particular, several organisations operating out of Mumbai and Goa are promoting the *Code of Conduct to Protect Children from Sexual Exploitation in Travel and Tourism* and engaging local, national and international tourism companies to become partners of the Code. In the summer of 2006, awareness-raising sessions on child sex tourism and the practices employed for prevention were held in Goa, attended by major Indian travel and tourism companies.

Fostering partnerships with the media

A number of initiatives have been undertaken to engage media more actively in reporting on CSEC while protecting the best interests of the child victim. For instance, the National Human Rights Commission and Prasar Bharati, with support from UNICEF, developed a Guidebook for the Media on Sexual Violence against Children. The publication followed four workshops organised in Goa, Ranchi, Jaipur and Puri for legal and police personnel, communication specialists and media professionals.⁴⁵ Sanlaap also started a helpline and a programme on a popular television channel to discuss trafficking, which has involved the participation of key stakeholders from Government, NGOs and the political arena.

Legal research to promote needed reforms in legislation related to CSEC has been undertaken by ECPAT International, the Human Rights Law Network, the National Law Schools of Bangalore and Kolkata, the Commission on Women, Sanlaap and PLAN International. Consultations, debates and discussions were organised by these groups to develop unified legal reform proposals to strengthen the protection of children from CSEC.

In addition, the NHRC, UNIFEM and the Institute of Social Sciences, New Delhi undertook the Action Research on Trafficking in Women and Children in 2002-2003, which involved collaboration with several State agencies, social scientists, police, NGOs and victims of trafficking.⁴⁶ Other published research studies include the Situational Analysis of Child Sex Tourism in India (Kerala and Goa) published by Equations and ECPAT International in 2003.

Addressing education and child labour: a holistic CSEC prevention strategy

The Government has taken a number of significant steps to improve education, deemed as an essential strategy to effectively combat the commercial sexual exploitation of children.⁴⁷ The *Constitution Act* (86th Amendment) from December 2002 made free and compulsory education a fundamental right for all children between the ages of six and fourteen. UNICEF reports that school enrollment rates have increased over the past decade in India and that the gender gap in enrollment rates has reduced dramatically. Literacy rates have also improved.⁴⁸ In addition, the Government's National Policy on Child Labour led to the establishment of approximately 100 National Child Labour Projects (NCLP) in 13 states, providing children withdrawn from hazardous work with special schools where rehabilitation, non-formal education, vocational training, healthcare, stipends and nutritional supplements are provided.

PROTECTION

The Government of India acceded to the *Convention on the Rights of the Child* in 1992. In 2005, India ratified the *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)*. The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* was signed but has not yet been ratified. India has not ratified *ILO Convention No. 182*. At regional level, India ratified the *SAARC Convention on Trafficking* and the *SAARC Convention on Child Welfare* in 2002.

Legislation⁴⁹

India has several laws that address various aspects of the commercial sexual exploitation of children: the *Immoral Traffic Prevention Act, 1956 (ITPA)*; *Indecent Representation of Women (Prohibition) Act, 1986 (IRWPA)*; the *Information Technology Act, 2000 (ITA)*; the *Juvenile Justice (Care and Protection of Children) Act 2000* (revised by the *Juvenile Justice (Care and Protection of Children) Amendment Act 2006*); and provisions of the *Penal Code*. In 2006, revisions to ITPA were proposed; among others, the amendments include provisions that more specifically define and prohibit trafficking and remove ambiguities that could be used to treat child victims of prostitution as offenders. These proposals would strengthen the protection of children from prostitution and trafficking in India; but, as of the writing of this report, these amendments had not been adopted as law.

Important amendments to ITPA being examined

One of the most significant features of the proposed amendments to ITPA is the recognition that women and children in prostitution are forced into commercial sex due to socio-economic pressures and, as such, should not be treated as offenders but rather as victims in need of support. A clear distinction is to be made between those who live on prostitution (that is, children and women who are engaged in prostitution) and those who live off prostitution (clients, pimps, brothel owners and madams) and the second category is to receive harsh punishments. Furthermore, a new clause will be inserted defining the offence of 'trafficking in persons' in line with the Trafficking Protocol standards. Finally, any person under 18 is to be treated as a child. The new laws are currently being studied by the Parliamentary Standing Committee.

Prostitution of Children

India has two laws related to prostitution of children: the *Immoral Traffic Prevention Act, 1956* and provisions of the *Penal Code*. Both laws fall short of international standards to protect children from being prostituted, as set forth in the *Optional Protocol*. For example, ITPA contains an ambiguous definition of prostitution that does not clearly specify the activities and types of remuneration that are prohibited. Moreover, contrary to international law, ITPA defines a child as a person under 16 years of age and fails to criminalise all acts of obtaining, procuring or providing a child for prostitution. In addition, ITPA criminalises soliciting for prostitution which, if applied to a prostituted child, treats a child victim of prostitution as an offender. Amendments to ITPA have been proposed that would define a child as a person under 18 years of age and decriminalise soliciting for prostitution, but they have not been enacted as law.⁵⁰ The *Penal Code* is similarly flawed: although it prohibits procuring, inducing or forcing a child into prostitution or illicit sexual intercourse, it fails to define ‘prostitution’ or ‘illicit sexual intercourse’, so it is unclear whether the scope of the law prohibits any sexual act with a child for remuneration, as required by international law. Moreover, the *Penal Code* offers almost no protection against prostitution for boys, who should be equally protected, particularly in view of the reasonably high incidence of boys’ prostitution in the country.

The age of sexual consent in India is 16.

ITPA defines prostitution as “the sexual exploitation or abuse of persons for commercial purposes, and the expression ‘prostitute’ shall be construed accordingly”; the terms ‘sexual exploitation’ and ‘commercial purposes’ are not defined.⁵¹ Although ITPA penalises the act of prostitution, it does not directly state that prostitution is illegal. Under ITPA, prostitution in or in the vicinity of a public place is illegal and it is illegal to solicit commercial sex in any form from any place visible from a public place; ‘public place’ is defined as any place intended for use by, or accessible to the public, as well as public conveyances.⁵² This law also makes it an offence to keep a brothel or allow premises to be used as a brothel;⁵³ live on the earnings of prostitution;⁵⁴ solicit for prostitution;⁵⁵ or detain a person in a place where prostitution occurs.⁵⁶ Punishments are prescribed for all of these violations and are increased for repeated violations.⁵⁷

ITPA does not contain any special provisions related to children. Since ITPA does not define ‘persons’, it is understood to include children. The law defines a child as a person who has not reached 16 years of age, a minor as a person between 16 and 18 years of age and a “major” (or adult) as a person who has reached 18 years of age.⁵⁸ However, ITPA does not distinguish between a child and an adult, nor does it state whether children in prostitution are victims or offenders. Thus, a literal reading of ITPA renders a prostituted

child liable for prosecution. In practice, children are not ordinarily treated as offenders;⁵⁹ according to discussions with members of the Judiciary and the police, the normal practice is to send rescued children to special protective homes.⁶⁰

Judicial interpretations of the status of children under ITPA are not clear. Under both ITPA and the *Penal Code*, sexual exploitation of a child under 16 years of age is statutory rape (consent is immaterial), so the law should be interpreted to treat children under 16 years of age as victims in need of care and protection. Unfortunately, a decision in a case involving the sexual exploitation of a child further contributed to the law's ambiguity; 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*.⁶¹ This is particularly troubling because prostitution of children is exploitation per se and children can never 'volunteer' for or 'consent' to their own exploitation.

In addition to ITPA, the *Penal Code* contains some sections relevant to the prostitution of children. Under this law, it is illegal to procure a minor girl by any means and induce a girl under 18 years of age into prostitution or any form of "illicit sexual intercourse"; violators may be punished with up to 10 years' imprisonment and a fine.⁶² It is also illegal to bring a girl under 21 years of age into a situation with the intention or awareness that it is likely that she may be forced or seduced to have intercourse with another person; punishment for this violation may be up to 10 years' imprisonment and a fine.⁶³ It is illegal to sell or buy a minor for the purposes of prostitution, and violators may be punished with up to 10 years' imprisonment and a fine.⁶⁴ In cases under the *Penal Code*, the burden of proof is shifted to the person who allegedly sells or buys a girl knowing that she will be forced into prostitution.

Trafficking in Children for Sexual Purposes

There are significant gaps between Indian laws on trafficking and international and regional standards for the protection of children. As a preliminary matter, India has not ratified the *Trafficking Protocol* and should make it a priority to do so. With respect to existing legislation, the *Penal Code's* prohibition on selling or buying a minor for purposes of prostitution fails to include many other activities related to trafficking prohibited by the *Trafficking Protocol*, such as recruiting, harbouring, transporting, transferring or receiving trafficked children. Additionally, while the Indian *Penal Code* prohibits importing a foreign girl for purposes of illicit sex, this provision offers no protection for girls from India or boys

from any country. It should also be noted that trafficking in children for purposes other than those stated above is not criminalised, while the *Trafficking Protocol* defines trafficking in children and its related acts for the purpose of exploitation, such as but not limited to prostitution, forced labour or slavery.⁶⁵ Indian legislators have proposed amendments to ITPA that would more specifically define and prohibit trafficking,⁶⁶ but they have not yet been enacted as law. There are also a number of cases currently pending before the Indian Supreme Court that could strengthen the law in this area.

India does not have a national law that clearly defines what constitutes trafficking.⁶⁷ The *Penal Code* contains several provisions related to trafficking in children for sexual purposes, but none of these defines trafficking. This law makes it illegal to import a girl from a foreign country knowing that she is likely to be induced into illicit sex; violators may be punished with up to 10 years' imprisonment and a fine.⁶⁸ The *Penal Code* makes it illegal to sell or buy a minor for prostitution.⁶⁹

Unclear legal definitions limit the protection of children against child pornography

Although the *Penal Code* provisions could be used to prosecute child pornography cases, despite their ambiguity in relation to what constitutes 'obscenity', judicial interpretation may restrict their application. In the leading case on *Penal Code* Section 292, the Court explained that in order to determine what is obscene, it must take "an overall view of the entire work to determine whether the obscene passages are so likely to deprave and corrupt those whose minds are open to such influences and in whose hands the book is likely to fall, and in doing so one must not overlook the influence of the book on the social morality of our contemporary society."⁷⁰ Such understanding denotes a focus on the effect on the public, rather than on the actual violation of the portrayed person's rights.

Child Pornography

India's laws do not meet international standards to protect children against pornography. As a preliminary matter, none of the three laws discussed below specifically refer to children, define or prohibit child pornography. Also, IRWPA is limited to visual representations, leaving out audio materials and simulated images, which are covered under international law; and, IRWPA does not include boys. Although the ITA covers digital and electronic media, it suffers from the same defects as the *Penal Code* provisions given its vague ban of lascivious material. Thus, Indian laws require greater clarity in order to conform to international standards for protection against child pornography.

India has three laws that could be used to prosecute cases of child pornography: The *Indecent Representation of Women (Prohibition) Act 1986*; the *Penal Code*; and the *Information Technology Act 2000*.

IRWPA prohibits indecent representations of women in any form, including advertisements, publications, writings, paintings or figures.⁷¹ Although the law relates to women, it does not define ‘women’, so girls may be within the ambit of this Act. IRWPA makes any “depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals” an offence which may be punished with up to two years’ imprisonment and a fine of up to 2,000 Rupees (approx. US\$ 45).⁷² All offences under IRWPA are cognisable: they are subject to bail and can be investigated by the police without a Court order.

In addition, the *Penal Code* has several provisions on obscenity that could be used to prosecute cases of child pornography. It prohibits the sale of obscene books;⁷³ the sale of obscene objects to a young person;⁷⁴ and obscene acts and songs by rendering the person performing them subject to prosecution, but not the audience or those who make the person perform the obscene act or song.⁷⁵ Thus, hypothetically, under this act a young girl dancing in a bar can be prosecuted while the person(s) making the girl perform are exonerated. Punishments for violations may be from two to five years’ imprisonment and a fine between 2,000 and 5,000 Rupees (US\$ 45 to US\$ 112).

Finally, the ITA contains a provision that prohibits electronically publishing or transmitting “any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons...”⁷⁶ Violators may be punished with between five and 10 years’ imprisonment and a fine between 100,000 and 200,000 Rupees (US\$ 2,245 to US\$ 4,490).

Serious blow to India’s fight against child pornography

The Government of India appointed an Experts Committee to review and propose amendments to the *Information Technology Act*. The Experts Committee submitted its report in August 2005. Nevertheless, the final draft of the *Information Technology (Amendment) Bill* did not incorporate the recommendations of the Expert Committee to include a provision on child pornography: instead, the latest draft of the *Bill* deleted the term ‘child pornography’

and replaced it with reference to a 'sexually explicit act', terminology that erodes the level of protection offered as it does not clearly define and prohibit child pornography. It is unclear who was responsible for the change, which seriously compromises the ability of the ITA in dealing with child abuse on the Internet. The Bill will soon be tabled in the Parliament.

A public outcry followed. "The culprit does not understand the worldwide dimension of child pornography, which has become an epidemic with the help of the Internet. In fact, a separate legislation is immediately needed to deal with the malaise," said the former Director of the Central Bureau of Investigation (CBI). "This is a regressive step after India signed and ratified the *Convention on the Rights of Child*," said the Director of the Centre for Prevention and Healing of Child Sexual Abuse (CPHCSA).⁷⁷

Extraterritorial Legislation

India does not have extraterritorial legislation that can be used to prosecute Indian nationals who commit crimes related to the commercial sexual exploitation of children outside of India.

The Goa Children's Act, 2003

In response to the increasing sexual exploitation of children in tourism, Goa formed a model law, the *Goa Children's Act*. The legislation specifies that any such offences are not eligible for bail under Section 2(a) of the *Criminal Procedure Code* 1973. The fines and jail terms are also severe - a fine of 100,000 Indian Rupees (US\$ 2,245) with imprisonment for one to three years for sexual assault and incest and a fine of 200,000 (US\$ 4,490) Indian Rupees with a seven to 10-year jail term in case of a grave sexual assault. The *Goa Children's Act* also proposed the establishment of a child-friendly Children's Court to minimise the trauma that abused children can be subjected to in Courts.⁷⁸

Child Protection Units

The *Juvenile Justice Act* provided for the establishment of a special Juvenile Police Unit authorised to deal with children, but these units have not been formed in most States. Every police station should have at least one specially-trained officer designated as the 'juvenile

or child welfare officer responsible for handling cases involving children in need of care and protection or in conflict with the law.⁷⁹ While special police officers have been assigned, they have not received the necessary training or infrastructural support to properly deal with cases involving commercially sexually exploited children.

Cases involving sexual crimes against children are not tried by special courts but by any court that hears criminal offences.⁸⁰ In cases involving sexual crimes against children, there is a special provision for trial through video-conferencing, which was approved by the Supreme Court in another context.⁸¹ The Indian Supreme Court also issued guidelines for a code of conduct to protect child victims of abuse and exploitation during court proceedings. For instance, victims of child sexual abuse (CSA) can now testify on camera.⁸²

ITPA has a specific provision requiring NGOs to be present when rescue operations are conducted by the police,⁸³ and the *Juvenile Justice Act* allows NGOs or any member of civil society to file a complaint on behalf of a child.⁸⁴

Support Services for Children

Child Welfare Committees (CWCs) have proved to be effective structures to reach and assist children in need of care and support. However, more CWCs are required at district level. Existing committees still lack the required expertise as prescribed in the *Juvenile Justice Act* and their coordination with the police, the State and the Central Advisory Committees needs to be enhanced. There is a need for longer-term follow up on reintegration of victims of commercial sexual exploitation, given the many incidences of re-trafficking of children for sexual purposes and of children once again being put in the vulnerable conditions that originally led them to be sexually exploited.

The *Juvenile Justice Act* establishes a Child Welfare Committee⁸⁵ in each district that has final authority in matters related to the care, protection, treatment, development and rehabilitation of children under this law.⁸⁶ Children in need of care and protection may be presented before the CWC,⁸⁷ after which an inquiry must be conducted within four months. During this time, the child remains in a CWC protective home;⁸⁸ the *Juvenile*

Justice Act established Children Homes,⁸⁹ and provided for shelter homes that can function as drop-in centres for children in need of urgent support.⁹⁰ The child can also be sent to his/her parents or guardians if they are willing to take care of the child,⁹¹ and the CWC can direct the parents of the child to contribute to the child's maintenance in certain cases.⁹²

Under Section 21 of the *Immoral Traffic Prevention Act*, Protective Homes were established exclusively for girls and women detained under the ITPA and also for those seeking protection from being forced into commercial sexual exploitation. The Government also has an extensive network of more than 351 short-stay homes assisted by the Ministry of Women and Child Development. In some red-light districts, there are projects for starting centres under the Integrated Child Development Service Scheme (ICDS).⁹³

In December 2001, the Government of India launched a scheme for recovery and reintegration of trafficking victims called 'Swadhar'. The scheme involves the provision of food, shelter, clothing, counselling, education, vocational training, medical and legal support. NGOs are partners in this holistic effort. The MWCD also formulated a model Grant-in-Aid scheme for assistance to NGOs to combat trafficking in source, transit and destination areas through prevention, rescue and rehabilitation.⁹⁴ A rescue to rehabilitation protocol was also

developed by the MWCD and circulated in different states of India.

CHILDLINE, a 24-hour emergency phone outreach service for children in need of care and protection links them to long-term services for rehabilitation. The service can be accessed by a child at risk or by an adult on their behalf by dialling 1098. At present, the CHILDLINE service is operational in 74 cities in India. NGOs and police staffing this helpline coordinate to respond to calls received.⁹⁵

Finally, UNICEF, NHRC, MWCD and Sanlaap are working on a bilateral agreement between Bangladesh and India for the safe reintegration of victims of trafficking. UNICEF India also developed a National Communication Strategy on child trafficking, which is now being implemented at community-level through UNICEF state offices. Manuals have been developed for social workers, the Judiciary and counsellors to enable rescue and rehabilitation processes that are in the best interest of the child.⁹⁶

Training Law Enforcement Personnel

There appears to be a lack of awareness about commercial sexual exploitation within law enforcement agencies and how the laws can be applied to better protect children. Judges also handle massive caseloads with little or no support, such as assistance with researching laws and legal procedures, and often do not have the time or opportunity to learn about the latest developments on national and international laws and legal procedures that can be applied in cases involving sexual crimes against children.⁹⁷ Furthermore, the investigating and prosecuting agencies lack good coordination to effectively bring perpetrators to justice.

Sanlaap recently completed training of police officers from 111 police stations in Kolkata and a further 11 districts, supported by UNODC. The training focused on the communication skills of police officers dealing with children, mental health issues and legal

issues related to investigations and prosecution of offenders. Several NGOs are involved in similar trainings in States such as Andhra Pradesh, Goa, Tamil Nadu, Maharashtra and Bihar and, for the first time, a universal training programme with common goals and a common curriculum is being applied in States that are highly affected by trafficking and commercial sexual exploitation of children.

The National University of Juridical Sciences (NUJS) in Kolkata is training public prosecutors on trafficking and CSEC issues. The National Legal Aid Services is looking at similar training and sensitisation targeting judges and elected Parliamentarians. Interestingly, NGOs are involved in all such trainings, especially by providing resource persons. Sanlaap, for instance, put together a team of trainers especially for this kind of training, who are currently building the capacity of other NGOs to undertake similar programmes. Sanlaap also created a guidebook for the police with information on procedures to be taken following the rescue of trafficked children.

The National Initiative for Child Protection anchored over 600 trainings to orient police on issues of child rights and child protection. Collaborative interventions between the police and CHILDLINE on issues such as reintegrating missing children have evolved from such interactions.

A manual on trafficking in women and children was prepared for the Judiciary by the National Human Rights Commission and the Ministry of Women and Child Development. Several workshops were conducted with Judicial Magistrates and representatives from NGOs throughout the country for this purpose. A manual was also developed for training District Magistrates on these issues, including trafficking in women and children. Several training programmes on counter-trafficking in the different police training programmes and academies have subsequently been carried out.⁹⁸ A comprehensive handbook on trafficking for law enforcement agencies was developed by PM Nair, a police officer, with support from UNIFEM.



PRIORITY ACTIONS REQUIRED

- State Advisory Committees must be made functional in all States to allow for the effective implementation of India's *Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children*. Action planning at state level should also be expedited. The budget allocated for NPA implementation at both levels must be increased.
- The Children's Commission should be immediately formed at national level (the related bill is currently pending). State counterparts should be institutionalised and their staff trained as soon as possible. Channels for child participation should be ensured in all such institutions/commissions.
- A larger number of Child Welfare Committees need to be set up at district level, with properly trained staff who are equipped to deal with CSEC cases; their coordination with law enforcers as well as with the State and the Central Advisory Committees must be enhanced.
- Religious and culturally-sanctioned prostitution of children, particularly among scheduled tribes and castes, must be systematically combated: the government's Tribal Development Programme must foster partnerships with civil society organisations to continuously implement programmes that sensitise such communities, and rescue and support prostituted children - particularly in areas such as Bihar, MP, UP and Rajasthan.
- More in-depth studies on the commercial sexual exploitation of boys are needed to support effective campaigns and interventions against this phenomenon. A national level network/forum on prostitution of boys should also be established as the foundation for adequate responses, exchange of information and programme intervention.
- State action plans should include provisions to tackle boys' prostitution, whenever enough information about the phenomenon is already available, such as in the states of Bihar, UP, MP, Rajasthan, Maharastra and Andhra Pradesh.
- Care facilities and human resources should be made available to adequately support sexually exploited boys. These services must be based on minimum standards of care, which are yet to be developed. Moreover, greater access to viable alternative livelihood options must be made available to sexually exploited boys.
- To prevent re-trafficking and further exploitation of CSEC victims, reintegration programmes such as the Kishori Shakti Yojna, initiated by the Ministry of Women and Child Development, should be widely replicated in the most affected state districts, including UP, MP, Rajasthan, Bihar and Haryana.
- Partnerships must be developed between the Panchayats (elected bodies responsible for administration at district level, usually in charge of local development issues), police and NGOs to improve collection of evidence, expediting cases and effecting successful prosecutions in CSEC cases. In addition, community-based organisations must work more closely with the police to provide legal assistance to victims and also to ensure that the police systematically lodges each FIR with the relevant details and actively pursues cases.
- Efforts must be made to actively involve the Panchayats in monitoring the situation in their areas, including checking children who come into and leave villages. A system for record keeping must be created and more awareness raising programmes must be conducted at the Panchayat level.

- The Gramsabhas (groups formed by NGOs and district authorities to identify traffickers and missing children) should be institutionalised in all key states.
- An enhanced system for the rescue and repatriation of children trafficked from Bangladesh to India must be urgently established, possibly based on the model proposed in a recent UNICEF study.
- India must ratify the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* and *ILO Convention No. 182*.
- Indian law on prostitution must be amended to specifically address children, clearly define which activities and types of remuneration are prohibited, and criminalise all acts of obtaining, procuring or providing a child for prostitution, as required under the *Optional Protocol*. In addition, legal protection against sexual exploitation must be granted to boys. A 'child' should be defined as a person up to 18 years of age, as required by the *Convention on the Rights of the Child*.
- The *Penal Code* provisions on child trafficking must include all the activities that constitute trafficking as per the *Trafficking Protocol*. The law should be amended to also provide protection for Indian girls (not only foreign girls, as is currently the case) and boys (who have no legal protection). In addition, the legislation should be reviewed to criminalise trafficking in children for any purposes and not only for prostitution.
- The proposed amendments to the *Immoral Traffic Prevention Act* should be enacted into law as soon as possible.
- India's laws on child pornography must be amended to clearly define and prohibit child pornography according to the standards set forth in the *Optional Protocol*, which India has ratified. The scope of the laws must extend beyond visual representations and cover audio materials and simulated images. Further, boys must be granted legal protection against child pornography.
- The *Information Technology Act* must be amended to criminalise all acts of producing child pornography for the purpose of offering, making available, distributing, transmitting through a computer system; using computer systems and other information technologies to groom children; as well as possessing child pornography on a computer system. As one of the leading nations in the development of new technology, India can no longer ignore the abuse of children that information and communication technology (ICT) is facilitating.
- In the states of Punjab, Haryana and Himachal Pradesh, sex selective abortions are rampant, resulting in a dangerous sex ratio that causes many women and children from less affluent states to be trafficked to these regions for marriage. Thus, the *Pre-Natal Diagnostic Techniques Act 2000* should be enforced more stringently in such states to prevent female foeticide; moreover, the *Prevention of Child Marriage Bill 2004*, already tabled in the Parliament, should be passed with immediate effect.
- Systematic training of police officers assigned to deal with crimes against children must be put in place so that they gain expertise on how to conduct their interventions to protect the best interests of the child: that is, collect evidence for effective prosecutions, work with vulnerable children, communicate with and support child victims of crime.
- Efforts to increase birth and marriage registration nationwide must be prioritised, as these are valuable protective mechanisms against CSEC.
- Capacity building of the police, government departments and local NGOs to address child pornography would be highly recommended, as there is a lack of such expertise in India and the problem is escalating.

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- ⁵¹ ITPA, Section 2(f).
- ⁵² Ibid, Sections 7, 8, 2(h).
- ⁵³ Ibid, Section 3.
- ⁵⁴ Ibid, Section 4.
- ⁵⁵ Ibid, Section 8.
- ⁵⁶ Ibid, Section 6.
- ⁵⁷ See, for example, ITPA, Section 3.
- ⁵⁸ ITPA, Sections 2(aa), cb, and ca.
- ⁵⁹ Cases registered before the trial courts are not reported, so it is difficult to cite actual cases to support this statement. This information was substantiated through interviews with the police, judges, members of Child Welfare Committees established under the Juvenile Justice Act and NGOs.
- ⁶⁰ Discussion with members of the Delhi Police and interviews with NGO representatives from IJM, Joint Women's Programme, Prajwala and Sanlaap during the months of March, April, May, June and July 2004.
- ⁶¹ *Prerana versus State of Maharashtra*, Criminal Writ Petition 788 of 2002, Mumbai High Court.
- ⁶² *Indian Penal Code*, Section 366A.
- ⁶³ Ibid, Section 367.
- ⁶⁴ Ibid, Sections 372, 373.
- ⁶⁵ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *United Nations Convention against Transnational Organized Crime*, Art. 3.
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- ⁷⁰ *Ranjit D.Udeshi versus State of Maharashtra*, 1965 (2) Criminal Law Journal, 8. This is a judgment by a five judge bench, and has strong precedential value. Normally, a two or three judge bench hears cases in the Supreme Court. If the Court feels that grave issues are involved, then the matter is referred to a larger bench, such as a five, seven, eleven, or thirteen judge bench.
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- ⁷² Ibid, Section 6.
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- ⁸⁵ This Committee consists of a Chairperson and four other members, out of whom at least one has to be a woman. *Juvenile Justice (Care and Protection of Children) Act*, 2000, Section 29. The 2006 amendment to this law does not alter the substantive provisions discussed in this section.
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