

COMBATING TRAFFICKING OF WOMEN AND CHILDREN IN SOUTH ASIA

**Regional Synthesis Paper for
Bangladesh, India, and Nepal**

APRIL 2003

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ADB	Asian Development Bank
APAC	AIDS Prevention and Control
ATSEC	Action Against Trafficking and Sexual Exploitation of Children
BNWLA	Bangladesh National Women Lawyers Association
CARE	Cooperation for Assistance and Relief Everywhere
CBO	community-based organization
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
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NORAD	Norwegian Agency for Development Cooperation
NPA	national plan of action
PPA	poverty reduction partnership agreement
PRI	Panchayati Raj Institution
PSA	poverty and social analysis
RETA	regional technical assistance
SAARC	South Asian Association for Regional Cooperation
SAFAHT	South Asia Federation Against Human Trafficking
SASEC	South Asia Subregional Economic Cooperation
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FOREWORD

Every year, millions of Asian men, women, and even children, venture to new pastures—from the village to the city and sometimes to another country. They are driven by poverty, social exclusion or civil unrest. Their goal is to survive and earn money for their families. For many—disproportionately women and children—these journeys end tragically, as they fall into the hands of traffickers.

Trafficking in women and children is reported to be on the rise in Asia. Although accurate figures are hard to come by and that any estimates have to be treated with cautions, the United States' State Department, for example, estimates that between 1 to 2 million people are trafficked worldwide, including 150,000 from South Asia and 225,000 from Southeast Asia. In the scale of organized crime, human trafficking ranks third behind drugs and arms smuggling.

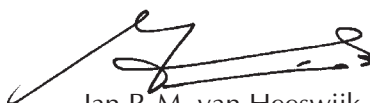
Trafficking involves gross violation of human rights. People suffer from physical and mental abuse and social stigmatization. They become isolated, losing ties with their former lives and families. On a large scale, trafficking subverts development efforts and raises social and health costs.

Trafficking in women and children, both as a root cause and manifestation of poverty and human deprivation, is a major challenge to Asian Development Bank (ADB) whose mission is to assist its member countries to accelerate poverty reduction. In response to the call for joint efforts to combat trafficking coming from governments, nongovernment organizations and the aid community in South Asia, ADB started in July 2002 a regional technical assistance (RETA). The RETA involved Bangladesh, India, and Nepal and had two main objectives: to help the countries better understand the dynamics of trafficking, and to identify and develop future ADB interventions that would contribute to reducing and preventing trafficking. To discuss the research findings and enhance knowledge exchange, five workshops and one exposure visit from South Asia to Thailand took place during the implementation of the RETA.

This two-volume report synthesizes the discussions and findings of the RETA, based on the three country reports and the supplementary report on legal framework. The main report, *Regional Synthesis Paper for Bangladesh, India, and Nepal*, contains the analysis of the nature and

extent of trafficking, contributing factors, legal framework, key stakeholders and their programs, and recommendations. The supplementary report on *Guide for Integrating Trafficking Concerns into ADB Operations* provides for possible steps to directly and indirectly address vulnerability to trafficking in regional and country programming and projects in various sectors.

We wish to acknowledge the support of numerous partners during the implementation of the RETA. It is only through the extensive and strong partnership that we can effectively combat the complex process of human trafficking.

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Jan P. M. van Heeswijk

Director General

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EXECUTIVE SUMMARY

Introduction

The alarming numbers of women and children being trafficked for forced labor or slavery-like practices (including commercial sexual exploitation) is a development concern for the Asian Development Bank (ADB). Although available statistics are limited and contested, the existing data has served to highlight the issue as evidenced by increased national attention to trafficking issues. An important dimension of inclusive development and a key focus area for ADB involves strengthening the participation of vulnerable groups in mainstream development, reducing gender discrimination, and promoting the development of social capital. ADB's involvement in combating trafficking of women and children directly addresses its strategic goals: poverty reduction and promoting gender equality.

Following initial investigations in the South Asia region and discussions with the governments of Bangladesh, India, and Nepal, the following objectives were developed for the ADB regional technical assistance (RETA):

- (i) To increase ADB's understanding of how its existing country programs and regional policy dialogue can be used to support and strengthen antitrafficking efforts in South Asia; and,
- (ii) To contribute to capacity building and other efforts by stakeholders to develop and implement policies and programming that will effectively combat trafficking in women and children in South Asia.

The challenge of combating trafficking is far beyond the capacity and resources of individual organizations alone, therefore ADB sought a collaborative approach for this RETA to learn from the experiences of member countries and ask questions about what it can do to help assist and move forward to address trafficking. The methodology utilized by the RETA Team (made up of six members, national consultants in each country, and an international consultant/team leader) recognized that ADB

should seek to bring specific value-added to an already active field of stakeholders by analyzing where the strengths and expertise of the organization lie and how to engage, as partners, those with technical experience in addressing trafficking concerns.

The approach to achieving the RETA objectives was based on carrying out a comprehensive analysis of the factors that induce and facilitate trafficking on the demand and supply side, and the potential for addressing vulnerabilities created by these factors in the context of ADB's policies and ADB-assisted projects. This analysis sought illustrations of how different types of antitrafficking activities already underway could be used in the context of sector activities such as road improvement, microfinance, women's empowerment, or other mainstream poverty reduction projects to combat trafficking of women and children. The findings of this assessment can now be used not only by ADB staff, but also by other agencies and organizations seeking to draw on a broader base of resources available through mainstream poverty reduction programs.

Findings

The findings of the RETA confirm that the dynamics of trafficking reach across the South Asia region, where, despite specific and different historical and cultural circumstances, similarities are clear. Extensive consultations verified that there is a severe lack of concrete data from which to build an accurate picture of the scope of trafficking. Traffickers go to great lengths to avoid monitoring of their illegal activities and any available data must be treated with caution. However, it was stressed very strongly that while concrete data is limited, this does not mean that government and international agencies should discount the magnitude of the trafficking problem. Trafficking appears to take place within each of the three countries, and across South Asian borders. India and to a lesser extent Bangladesh also serve as transit countries for traffickers moving people to other destinations. Trafficked persons may also be regular migrants from Bangladesh or Nepal to India, who are then trafficked either to further destinations in India or elsewhere.

The lack of data and solid body of research has also led to the building of certain myths and assumptions about trafficking that need to be questioned, for example, that trafficking is usually for the purposes of

prostitution, when there is evidence of the use of trafficked persons as domestic workers, or in factories. An assumption that most trafficking incidents start with kidnapping is also false, as coercion or deception by traffickers frequently occurs as part of a migration experience. Understanding why those vulnerable to trafficking migrate in the first place, and how to make migration a positive experience, is key to addressing the risks mobile populations face.

It is also frequently assumed that all trafficked persons desire to return home, whereas they may have initially left home before being trafficked to escape an abusive environment. Stigmatization by other community or family members might also make return difficult, if not impossible. Adopting a rights-based approach to rescue and reintegration is vital if such efforts are to be positive and effective for the trafficked person. The complexity of trafficking, the links with visceral issues such as commercial sex work and exploitation of children, and the politics of migration management have meant that there is much contention over the definition of trafficking and the types of policies and programming that would effectively combat this serious crime and affront to basic human rights.

Consensus is evolving through United Nations (UN) international mechanisms on a working definition for trafficking. In this context it is important to clarify that this RETA employed the following definition:

“Trafficking in persons means:

1. The recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons: by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of:
2. Placing or holding such person(s), whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in 1.”¹

Another area of consensus is that gender-based differences and attitudes play an important role in both the supply and demand dynamics

¹ Coomaraswamy, Radhika. 2001. *Addendum Report to the Human Rights Commission regarding Mission to Bangladesh, Nepal and India on the issue of trafficking of women and children* (October-November 2000).

of trafficking. From what data is available in South Asia, it appears that the “worst forms” of trafficking relate to the illegal movement of women and children for the purposes of exploitation in sectors such as commercial sex work, and child labor of all forms,² and the low status of women increases their vulnerability as targets of traffickers and limits their options as survivors seeking a new life. ADB’s strong commitment to redress gender imbalances and to contribute to women’s empowerment through its operations provided a strong rationale for the RETA to consider the issues associated with combating the trafficking of women and children, as those most frequently harmed by and vulnerable to its effects.

Dynamics of Trafficking

In order to explore potential entry points to address trafficking through poverty reduction initiatives, the RETA analyzed the complex factors that push or pull the vulnerable into situations of high risk to be recruited by traffickers, and those that create a demand for exploitable labor.

- The most commonly identified push factor driving the trafficking process is poverty. The necessity to meet basic needs, *in combination with* other factors, is the most commonly identified motivation to migrate or to encourage a family member to leave.
- An understanding of the non-economic elements of poverty—lack of human and social capital, gender discrimination—is also necessary, however, to identify the most vulnerable to marginalization from the development process and, simultaneously, to trafficking.
- Governance issues also play a role in allocating resources and services in a community and those living in poverty tend to have limited access to these development opportunities, reinforcing their vulnerability to trafficking.
- Other pull factors, such as images drawn from the media and stories from returning migrants, entice many into migrating under ill-informed and risky circumstances.

² Skeldon, R. 2000/1. Trafficking: A Perspective from Asia. *International Migration*, Special Issue.

- Macro factors such as the impacts of globalization, employment, trade, migration policies, and conflicts and environmental disasters can set into motion circumstances that increase vulnerabilities. Development-induced risks also play a role. The demand for exploitable labor in sectors where harsh and criminal working conditions go undetected also creates a pull effect on those already vulnerable. For example, the demand for younger and younger sexual partners (girls and boys frequently as young as 10 or 11 years old) in the commercial sex sector is linked to many clients seeking human immunodeficiency virus/acquired immune deficiency syndrome-free (HIV/AIDS) partners. For as long as these demands exist, opportunistic traffickers will fill each niche.

As quoted by Coomaraswamy, “traffickers fish in the stream of migration”³ and can easily identify those who are most easily deceived or coerced, so building resistance among migrants to ensure that these experiences bring positive outcomes is another important aspect to addressing trafficking concerns. The negative impacts of trafficking on all communities are also considerable. No information or analysis is currently available but it would seem undeniable that the negative social, economic, and health impacts are undermining development efforts at many levels.

Challenges exist when developing programming in many areas, for example:

- Migrants need protection and policies and programs to facilitate safe migration, but such activities have been used to exclude women from migration opportunities or to limit the inflow of migrants, thus stagnating the important role of migration in development. New immigration policies might also create new niches for opportunistic traffickers to exploit.
- Communities need to be made aware of the harm traffickers cause when they arrive in their midst, but without causing suspicion of newcomers or marginalizing those already considered “different.”

³ Coomaraswamy, Radhika. 2001. op. cit.

- Labor standards must be addressed to curb the demand for trafficked labor, but this is very challenging in the informal sector and can create suspicion from within the formal sectors as measures by developed countries to limit trade from economies with cheap labor.
- Targeting the vulnerable and source areas is difficult as the modus operandi of traffickers must be flexible to fill demand niches as they emerge and be ready to change their routes or source areas to evade prosecution.

Relevance of Trafficking to ADB

There is considerable potential for collaboration by ADB with existing stakeholders to address trafficking concerns through poverty reduction programming, particularly in the area of preventing and reducing vulnerabilities of those most at risk. The challenge lies in creating mechanisms to improve targeting and identification of risks. ADB policies and guidelines are already in place to address specific aspects of poverty reduction, for example concerning gender equality, governance, resettlement, and social protection. These can be used and expanded to incorporate trafficking concerns. There are also several areas of research and dialogue where ADB's expertise and unique position in the region can be used to make progress, for example, in curbing the demand for trafficked labor, to encourage collaboration among governments regarding trade and migration policies, and to assess the impacts of trafficking on regional development and economic integration efforts.

There is potential for ADB operations to address trafficking in the following ways:

- target those most vulnerable to trafficking, especially women and children;
- assess the impacts of ADB operations to take up opportunities to prevent, minimize, and mitigate development-induced risks;
- rebuild social and human capital among mobile (or potentially mobile) populations in emergency loans and assistance in postconflict reconstruction;

- encourage safe migration through for example incorporating safe migration messages in social mobilization components of ADB-supported projects in source areas; ensuring migrants have access to basic needs such as shelter in urban slum areas; and extending benefits of social protection to mobile populations; and
- stem demand for trafficked labor, especially in the informal sector and among small and medium enterprises.

The following general steps can be used by ADB staff to mainstream trafficking into ADB operations:

- Where possible, flag the issue of trafficking in subregional strategies (e.g., subregional cooperation strategy and program [SCSP]) and country analyses and strategies (e.g., country poverty analysis, country strategy and program (CSP), CSP updates, and country gender analysis and strategy).
- Include the analysis of groups that are particularly vulnerable to trafficking in the initial poverty and social analysis (IPSA) and poverty and social analysis (PSA). In particular, include mobile populations into the analysis as well as women and children.
- Develop project designs that would directly and indirectly combat and reduce human trafficking.
- Identify and work with partners (e.g., ministries, nongovernment organizations [NGOs], private sector groups including contractors and donors) to develop and implement antitrafficking project components.
- Where nonlending products and services (e.g., technical assistance and sector and thematic works) provide opportunities, consider addressing trafficking.
- Raise awareness among relevant ADB staff including dissemination of findings of the reports produced under the RETA through various means such as: (a) publication, external website, and relevant committees and networks; (b) developing pilot projects with the initiatives of regional departments in collaboration with the Poverty Reduction and Social Development Division (RSPR) in the Regional and Sustainable Development

Department (RSDD); and (c) developing guidelines and good practices on contractors' codes of conduct and loan covenants in collaboration with the Project Coordination and Procurement Division (COPP) and the Office of the General Counsel (OGC).

At the regional and subregional level there is potential to integrate trafficking concerns into projects that are implemented in more than one country in the same key ways. These efforts could be supported considerably through the establishment of a working group on social development for South Asia subregional activities (including outcomes of the South Asia Subregional Economic Cooperation RETA). This working group could draw on the experiences of Greater Mekong Subregion where trafficking has been identified as a key element of cross-border movements. At the country and project levels the RETA also identifies types of projects with links to trafficking, as well as specific risk factors associated with these sectors of activity and potential entry points.

As stated in the closing remarks of the Director General, South Asia Department at the RETA Regional Workshop, ADB is committed to addressing trafficking concerns. Since the adoption of the Poverty Reduction Strategy, there is greater rationale and potential to incorporate such concerns and new sources of funding are now available. ADB's mandate also directly includes the promotion of regional cooperation. Trafficking is a serious limit on the positive forces of development, and bringing additional resources from broad-based poverty reduction projects to address the root causes of vulnerabilities and risks must be encouraged. ADB should continue the commitment expressed through the RETA and now seek other opportunities and means to combat trafficking in all its operations.

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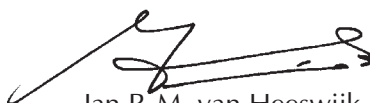
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Regional and Sustainable Development Department
Asian Development Bank

should seek to bring specific value-added to an already active field of stakeholders by analyzing where the strengths and expertise of the organization lie and how to engage, as partners, those with technical experience in addressing trafficking concerns.

The approach to achieving the RETA objectives was based on carrying out a comprehensive analysis of the factors that induce and facilitate trafficking on the demand and supply side, and the potential for addressing vulnerabilities created by these factors in the context of ADB's policies and ADB-assisted projects. This analysis sought illustrations of how different types of antitrafficking activities already underway could be used in the context of sector activities such as road improvement, microfinance, women's empowerment, or other mainstream poverty reduction projects to combat trafficking of women and children. The findings of this assessment can now be used not only by ADB staff, but also by other agencies and organizations seeking to draw on a broader base of resources available through mainstream poverty reduction programs.

Findings

The findings of the RETA confirm that the dynamics of trafficking reach across the South Asia region, where, despite specific and different historical and cultural circumstances, similarities are clear. Extensive consultations verified that there is a severe lack of concrete data from which to build an accurate picture of the scope of trafficking. Traffickers go to great lengths to avoid monitoring of their illegal activities and any available data must be treated with caution. However, it was stressed very strongly that while concrete data is limited, this does not mean that government and international agencies should discount the magnitude of the trafficking problem. Trafficking appears to take place within each of the three countries, and across South Asian borders. India and to a lesser extent Bangladesh also serve as transit countries for traffickers moving people to other destinations. Trafficked persons may also be regular migrants from Bangladesh or Nepal to India, who are then trafficked either to further destinations in India or elsewhere.

The lack of data and solid body of research has also led to the building of certain myths and assumptions about trafficking that need to be questioned, for example, that trafficking is usually for the purposes of

EXECUTIVE SUMMARY

Introduction

The alarming numbers of women and children being trafficked for forced labor or slavery-like practices (including commercial sexual exploitation) is a development concern for the Asian Development Bank (ADB). Although available statistics are limited and contested, the existing data has served to highlight the issue as evidenced by increased national attention to trafficking issues. An important dimension of inclusive development and a key focus area for ADB involves strengthening the participation of vulnerable groups in mainstream development, reducing gender discrimination, and promoting the development of social capital. ADB's involvement in combating trafficking of women and children directly addresses its strategic goals: poverty reduction and promoting gender equality.

Following initial investigations in the South Asia region and discussions with the governments of Bangladesh, India, and Nepal, the following objectives were developed for the ADB regional technical assistance (RETA):

- (i) To increase ADB's understanding of how its existing country programs and regional policy dialogue can be used to support and strengthen antitrafficking efforts in South Asia; and,
- (ii) To contribute to capacity building and other efforts by stakeholders to develop and implement policies and programming that will effectively combat trafficking in women and children in South Asia.

The challenge of combating trafficking is far beyond the capacity and resources of individual organizations alone, therefore ADB sought a collaborative approach for this RETA to learn from the experiences of member countries and ask questions about what it can do to help assist and move forward to address trafficking. The methodology utilized by the RETA Team (made up of six members, national consultants in each country, and an international consultant/team leader) recognized that ADB

prostitution, when there is evidence of the use of trafficked persons as domestic workers, or in factories. An assumption that most trafficking incidents start with kidnapping is also false, as coercion or deception by traffickers frequently occurs as part of a migration experience. Understanding why those vulnerable to trafficking migrate in the first place, and how to make migration a positive experience, is key to addressing the risks mobile populations face.

It is also frequently assumed that all trafficked persons desire to return home, whereas they may have initially left home before being trafficked to escape an abusive environment. Stigmatization by other community or family members might also make return difficult, if not impossible. Adopting a rights-based approach to rescue and reintegration is vital if such efforts are to be positive and effective for the trafficked person. The complexity of trafficking, the links with visceral issues such as commercial sex work and exploitation of children, and the politics of migration management have meant that there is much contention over the definition of trafficking and the types of policies and programming that would effectively combat this serious crime and affront to basic human rights.

Consensus is evolving through United Nations (UN) international mechanisms on a working definition for trafficking. In this context it is important to clarify that this RETA employed the following definition:

“Trafficking in persons means:

1. The recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons: by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of:
2. Placing or holding such person(s), whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in 1.”¹

Another area of consensus is that gender-based differences and attitudes play an important role in both the supply and demand dynamics

¹ Coomaraswamy, Radhika. 2001. *Addendum Report to the Human Rights Commission regarding Mission to Bangladesh, Nepal and India on the issue of trafficking of women and children* (October-November 2000).

of trafficking. From what data is available in South Asia, it appears that the “worst forms” of trafficking relate to the illegal movement of women and children for the purposes of exploitation in sectors such as commercial sex work, and child labor of all forms,² and the low status of women increases their vulnerability as targets of traffickers and limits their options as survivors seeking a new life. ADB’s strong commitment to redress gender imbalances and to contribute to women’s empowerment through its operations provided a strong rationale for the RETA to consider the issues associated with combating the trafficking of women and children, as those most frequently harmed by and vulnerable to its effects.

Dynamics of Trafficking

In order to explore potential entry points to address trafficking through poverty reduction initiatives, the RETA analyzed the complex factors that push or pull the vulnerable into situations of high risk to be recruited by traffickers, and those that create a demand for exploitable labor.

- The most commonly identified push factor driving the trafficking process is poverty. The necessity to meet basic needs, *in combination with* other factors, is the most commonly identified motivation to migrate or to encourage a family member to leave.
- An understanding of the non-economic elements of poverty—lack of human and social capital, gender discrimination—is also necessary, however, to identify the most vulnerable to marginalization from the development process and, simultaneously, to trafficking.
- Governance issues also play a role in allocating resources and services in a community and those living in poverty tend to have limited access to these development opportunities, reinforcing their vulnerability to trafficking.
- Other pull factors, such as images drawn from the media and stories from returning migrants, entice many into migrating under ill-informed and risky circumstances.

² Skeldon, R. 2000/1. Trafficking: A Perspective from Asia. *International Migration*, Special Issue.

- Macro factors such as the impacts of globalization, employment, trade, migration policies, and conflicts and environmental disasters can set into motion circumstances that increase vulnerabilities. Development-induced risks also play a role. The demand for exploitable labor in sectors where harsh and criminal working conditions go undetected also creates a pull effect on those already vulnerable. For example, the demand for younger and younger sexual partners (girls and boys frequently as young as 10 or 11 years old) in the commercial sex sector is linked to many clients seeking human immunodeficiency virus/acquired immune deficiency syndrome-free (HIV/AIDS) partners. For as long as these demands exist, opportunistic traffickers will fill each niche.

As quoted by Coomaraswamy, “traffickers fish in the stream of migration”³ and can easily identify those who are most easily deceived or coerced, so building resistance among migrants to ensure that these experiences bring positive outcomes is another important aspect to addressing trafficking concerns. The negative impacts of trafficking on all communities are also considerable. No information or analysis is currently available but it would seem undeniable that the negative social, economic, and health impacts are undermining development efforts at many levels.

Challenges exist when developing programming in many areas, for example:

- Migrants need protection and policies and programs to facilitate safe migration, but such activities have been used to exclude women from migration opportunities or to limit the inflow of migrants, thus stagnating the important role of migration in development. New immigration policies might also create new niches for opportunistic traffickers to exploit.
- Communities need to be made aware of the harm traffickers cause when they arrive in their midst, but without causing suspicion of newcomers or marginalizing those already considered “different.”

³ Coomaraswamy, Radhika. 2001. op. cit.

- Labor standards must be addressed to curb the demand for trafficked labor, but this is very challenging in the informal sector and can create suspicion from within the formal sectors as measures by developed countries to limit trade from economies with cheap labor.
- Targeting the vulnerable and source areas is difficult as the modus operandi of traffickers must be flexible to fill demand niches as they emerge and be ready to change their routes or source areas to evade prosecution.

Relevance of Trafficking to ADB

There is considerable potential for collaboration by ADB with existing stakeholders to address trafficking concerns through poverty reduction programming, particularly in the area of preventing and reducing vulnerabilities of those most at risk. The challenge lies in creating mechanisms to improve targeting and identification of risks. ADB policies and guidelines are already in place to address specific aspects of poverty reduction, for example concerning gender equality, governance, resettlement, and social protection. These can be used and expanded to incorporate trafficking concerns. There are also several areas of research and dialogue where ADB's expertise and unique position in the region can be used to make progress, for example, in curbing the demand for trafficked labor, to encourage collaboration among governments regarding trade and migration policies, and to assess the impacts of trafficking on regional development and economic integration efforts.

There is potential for ADB operations to address trafficking in the following ways:

- target those most vulnerable to trafficking, especially women and children;
- assess the impacts of ADB operations to take up opportunities to prevent, minimize, and mitigate development-induced risks;
- rebuild social and human capital among mobile (or potentially mobile) populations in emergency loans and assistance in postconflict reconstruction;

- encourage safe migration through for example incorporating safe migration messages in social mobilization components of ADB-supported projects in source areas; ensuring migrants have access to basic needs such as shelter in urban slum areas; and extending benefits of social protection to mobile populations; and
- stem demand for trafficked labor, especially in the informal sector and among small and medium enterprises.

The following general steps can be used by ADB staff to mainstream trafficking into ADB operations:

- Where possible, flag the issue of trafficking in subregional strategies (e.g., subregional cooperation strategy and program [SCSP]) and country analyses and strategies (e.g., country poverty analysis, country strategy and program (CSP), CSP updates, and country gender analysis and strategy).
- Include the analysis of groups that are particularly vulnerable to trafficking in the initial poverty and social analysis (IPSA) and poverty and social analysis (PSA). In particular, include mobile populations into the analysis as well as women and children.
- Develop project designs that would directly and indirectly combat and reduce human trafficking.
- Identify and work with partners (e.g., ministries, nongovernment organizations [NGOs], private sector groups including contractors and donors) to develop and implement antitrafficking project components.
- Where nonlending products and services (e.g., technical assistance and sector and thematic works) provide opportunities, consider addressing trafficking.
- Raise awareness among relevant ADB staff including dissemination of findings of the reports produced under the RETA through various means such as: (a) publication, external website, and relevant committees and networks; (b) developing pilot projects with the initiatives of regional departments in collaboration with the Poverty Reduction and Social Development Division (RSPR) in the Regional and Sustainable Development

Department (RSDD); and (c) developing guidelines and good practices on contractors' codes of conduct and loan covenants in collaboration with the Project Coordination and Procurement Division (COPP) and the Office of the General Counsel (OGC).

At the regional and subregional level there is potential to integrate trafficking concerns into projects that are implemented in more than one country in the same key ways. These efforts could be supported considerably through the establishment of a working group on social development for South Asia subregional activities (including outcomes of the South Asia Subregional Economic Cooperation RETA). This working group could draw on the experiences of Greater Mekong Subregion where trafficking has been identified as a key element of cross-border movements. At the country and project levels the RETA also identifies types of projects with links to trafficking, as well as specific risk factors associated with these sectors of activity and potential entry points.

As stated in the closing remarks of the Director General, South Asia Department at the RETA Regional Workshop, ADB is committed to addressing trafficking concerns. Since the adoption of the Poverty Reduction Strategy, there is greater rationale and potential to incorporate such concerns and new sources of funding are now available. ADB's mandate also directly includes the promotion of regional cooperation. Trafficking is a serious limit on the positive forces of development, and bringing additional resources from broad-based poverty reduction projects to address the root causes of vulnerabilities and risks must be encouraged. ADB should continue the commitment expressed through the RETA and now seek other opportunities and means to combat trafficking in all its operations.

CHAPTER 1

INTRODUCTION

Human trafficking in South Asia is not a new phenomenon. For hundreds of years cycles of movement of kidnapped or bonded labor have taken place, and in some communities have been the sole source of income beyond subsistence agriculture. While human trafficking may have been an integral part of the traditional economy and the cycle of movement of people within South Asia, it has only recently been recognized as a global concern as trafficked persons are found in a growing number of countries. Recent studies and analysis are demonstrating changes in the process and economy of trafficking in the South Asia region as it becomes more integrated into transnational criminal activities and the demands for trafficked labor adjust to globalizing economic structures. In order to understand the phenomenon and hence develop strategies to combat a vicious and harmful criminal activity for trafficked persons and communities alike, some definitions and descriptions of the basic process have to be outlined.

In July 2001, a regional technical assistance (RETA) was undertaken for India, Bangladesh, and Nepal, with the following broad objectives:

- to increase the Asian Development Bank's (ADB) understanding of how its existing country programs and regional policy dialogue can be used to support and strengthen antitrafficking efforts in South Asia; and
- to contribute to capacity building and other efforts by stakeholders to develop and implement policies and programming that will effectively combat trafficking of women and children in South Asia.

These objectives were framed around the ongoing activities of a wide range of stakeholders, including government departments and nongovernment organizations (NGOs), that have developed specific expertise and capacities in different areas of programming. The recommendations of the RETA therefore seek to make a contribution to these ongoing efforts in a complementary and collaborative manner. There

has also been a series of events associated with combating trafficking of women and children anticipated in the region, including:

- the preparations for the Second World Congress against Commercial Sexual Exploitation of Children in Yokohama in December 2001, which included reviewing/establishing national plans of action (NPA) to combat trafficking; and
- the signing of the South Asian Association for Regional Cooperation (SAARC) *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution* (the SAARC Trafficking Convention) in January 2002.

During international and regional meetings associated with these events, many stakeholders identified that, as poverty has such a strong connection with trafficking, poverty reduction programming of large development agencies should target those most at risk to trafficking more effectively. Given ADB's extensive involvement in poverty reduction programming, its particular contribution can be to mainstream antitrafficking initiatives into the country strategies and programs and regional policy dialogue, and hence ensure that those most at risk to being trafficked benefit from these efforts.

The findings of the RETA demonstrate that there is considerable potential for collaboration by ADB with existing stakeholders to address trafficking concerns through poverty reduction programming, particularly in the area of preventing and reducing vulnerabilities of those most at risk. The challenge lies in creating mechanisms to improve targeting and identification of risks. ADB policies and guidelines are already in place to address specific aspects of poverty reduction, for example concerning gender equality, governance, resettlement, and social protection. These can be used and expanded to incorporate trafficking concerns. There are also several areas of research and dialogue where ADB's expertise and unique position in the region can be used to make progress, for example, to curb the demand for trafficked labor, to encourage collaboration among governments regarding trade and migration policies, and to assess the impacts of trafficking on regional development and economic integration efforts.

There is potential for ADB operations to address trafficking in the following ways:

- target those most vulnerable to trafficking, especially women and children;

- assess the impacts of ADB operations to take up opportunities to prevent, minimize, and mitigate development-induced risks;
- rebuild social and human capital among mobile (or potentially mobile) populations through emergency loans and assistance in postconflict reconstruction;
- encourage safe migration through, for example, incorporating safe migration messages in social mobilization components of ADB-supported projects in source areas, ensuring migrants have access to basic needs such as shelter in urban slum areas, and extending benefits of social protection to mobile populations; and
- stem demand for trafficked labor, especially in the informal sector and among small and medium enterprises.

Despite the increasing global recognition that responses to human trafficking must be more effective to stem this harmful process, there remains great contention among activists, policymakers, legislators, and survivors about the definition and means to combat the full range of human trafficking activities. This lack of consensus highlights the following aspects of trafficking:

- The highly complex nature of human trafficking processes that affect many different actors: trafficked persons; their families; communities; and other third parties recruiting, transporting, harboring, and using trafficked labor.
- The difficulty, if not impossibility, to quantify the scope of trafficking, because of its illegal character. Those profiting from it seek to obscure their activities and encourage complicity from as wide a range of actors as possible, through coercion and offers to share in profits, in order to enhance their impunity from prosecution.
- The mechanisms, routes, and destinations for human trafficking change rapidly according to economic conditions and risks involved. For example, in response to changes in immigration regulations, traffickers seek new channels to make profit; as labor demands change, coercion methods shift to ensure a suitable supply of victims is available. This makes it difficult to generalize about the modus operandi of traffickers or to ensure that new legislation, while preventing one form, does not create new opportunities in other areas.
- Because of this complexity and the need for traffickers to respond to prevailing legal, economic, and social conditions,

the causes and characteristics of human trafficking vary greatly from region to region, country to country.

- Human trafficking supplies labor for many sectors, including commercial sex work (CSW). Any analysis, policy, or programming in this sector raises numerous moral and visceral responses from different stakeholders leading to significant differences in ideological approaches to address trafficking concerns. There are also similar debates around definitions of children and their roles in the work force, which complicate and often delay responses.
- Human trafficking involves gross violations of human rights, great human suffering, and yet appears to be very difficult to combat. Despite increasing investments from governments, funding agencies, and civil-society organizations, evidence seems to suggest an increasing incidence of human trafficking as the demand for this form of exploitable labor persists.
- The links between human trafficking and migration theory are not well understood or explored, and consequently the role migration management can play in addressing trafficking has been largely ignored by policymakers and development planners alike.

The objectives of the RETA have been achieved through preparation of country papers for Bangladesh, India, and Nepal, and a synthesis paper of the regional findings presented at a regional workshop in Manila in May 2002, as well as an exchange program to Thailand. (There is also a separate study on legal frameworks and issues.)

This paper brings together findings from the three country papers to explore how ADB can play a role in addressing trafficking at a regional level in South Asia. Human trafficking, and particularly of women and children, has become a prominent issue in recent years as efforts to stem the associated human rights abuses have been brought onto the global agenda. Concern is also increasing as individual states and international bodies seek ways to limit illegal and irregular migration—and human trafficking is also clearly a part of these broader migration management concerns.

Given the challenges of assessing and comparing data on an illegal activity that is under-reported through formal mechanisms, the RETA team depended on a number of other sources for corroboration and verification of data: government officials, law enforcers, National Crime Records Bureau (NCRB), Crime Bureau of Investigation (CBI), and NGOs working

in red-light areas, civil-society networks, and alliances working in various states. In addition to this, consultation between personnel working on the three ADB national studies (including exchange of relevant inputs on source areas, transit points, mapping of routes, and modus operandi) has been useful in identifying best practices in data collection and interpretation. The RETA also commissioned separate papers on the magnitude/complexities of the trafficking problem from NGOs directly involved in rescue and repatriation.

CHAPTER 2

UNDERSTANDING TRAFFICKING

2.1 Introduction

Human trafficking is increasingly recognized as a complex process, involving **a series of episodes for the person trafficked**⁴ that require markedly different responses from governments or communities. These episodes might start with a desire or need to move or migrate, followed by an encounter with a trafficker leading to coercion or deception, and finally to highly harmful and exploitative working situations. For other trafficked persons, the process might start with family members handing over responsibility for their safety and well-being to others known to them, but then ending up trafficked by a third set of actors. The trafficked persons after some time might prefer to remain away from their original community, despite the exploitation and harm they have suffered. The options for returning home may involve further stigmatization, lack of control over their lives, and limited or no opportunities for economic survival. Many trafficked persons remain migrants, often moving on to less exploitative situations. What is clear is that a trafficking episode changes a person's situation for life.

As there are relatively few cases of kidnapping, it is important to understand the motivation or need behind why a trafficked person was convinced or voluntarily moved in the first place and who or **what influenced that decision**. This information can assist in building resistance to traffickers. Poverty or the failure to meet basic needs, social exclusion, insecurity, or stigmatization are often identified as the initial motivating factor and provide a starting point to address these concerns. ADB can address those factors that may result in a trafficking experience through its operations in Bangladesh, Nepal, and India at the subregional level.

For traffickers, the process is a systematic, well-organized economic phenomenon, involving the displacement and movement of persons solely to profit (directly or indirectly) from the **exploitation of the trafficked**

⁴ It has been argued that using the term “victim” to describe someone who has been trafficked is disempowering, therefore, for this paper the term “trafficked person” will be used where possible.

person's labor. Trafficking offers opportunities to make quick cash for many, and for some it garners extremely high profits. Human trafficking has been identified as the third largest source of profit for organized crime, generating billions of dollars annually despite increasing funding for intervention efforts. (The other two sources are weapons/arms and drug trafficking.⁵) Some forms of human trafficking have existed for thousands of years, while others have come about from opportunities presented by emerging economic niches.

The persistence of (and apparent recent increase in) human trafficking is an inextricable part of the **modernization or development process**. Vulnerability to trafficking is linked to some of the changes that come with modernization, for example, individuals migrating to seek new horizons as doors are opened through education or new media; the movement of rural populations to cities as traditional livelihoods are disappearing; or those excluded from the development process who are forced to move to meet their basic needs.

A key finding of this paper is that if such risks are minimized as development programs are implemented, then trafficking can be curbed and the harm it causes reduced. Indeed, ADB's poverty reduction strategy aims to minimize these risks of exclusion and vulnerability.

Traffickers **take advantage** of vulnerabilities in others, many of which are the outcomes of poverty, poor governance (for example limited law enforcement or implementation of labor standards), or social exclusion. Desperate circumstances often lead migrants to take difficult decisions and lead them into situations of great risk and vulnerability. Again, these are factors that can be addressed as part of ADB poverty reduction operations and thus contribute to combating trafficking.

Trafficking is a difficult phenomenon to address for governments and other stakeholders. Effective institutional responses to implement the recently established or revised NPAs to combat commercial sexual exploitation of children (including trafficking) for all three countries included in this RETA involve a wide group of ministries across governments. Coordination among government departments is challenging. As NPAs are now in place and the governments of the South Asia region have signed the SAARC Trafficking Convention, it will be easier to identify priority areas and gaps in policies and procedures, and to initiate dialogue among SAARC countries.

⁵ Government of Sweden: Ministry of Foreign Affairs, Department for Asia and the Pacific. 2001. Trafficking in Women and Children in Asia and Europe: A Background Presentation of the Problems Involved and the Initiatives Taken. Stockholm.

The complications of coordination among different ministries and other stakeholders are multiplied, however, as organizations seek to collaborate with counterparts across borders whose organizational structures and mandates may be quite different. Crossborder issues involve several ministries with maintenance of security as their mandate, for example immigration or border patrols. These government departments tend therefore to focus on enforcement of regulations and restrictions on movement of people and goods. Humane treatment of trafficked persons requires a broader response that includes other stakeholders and a change in attitudes and approach from those officials involved in law enforcement. ADB recognizes the importance of **regional integration and cooperation** on shared issues. It is relevant in this context, therefore, to understand how human trafficking undermines regional economic growth, social, human development, and security issues, and to incorporate these trafficking issues into regional dialogues.

2.2 Defining Trafficking: The Debates

2.2.1 Key Characteristics of Trafficking

To assist in understanding what can be considered trafficking, the RETA builds on widely adopted definitions to identify key characteristics that form the framework for the analysis. Key characteristics are:

- **Demand for Exploitable Labor.** The demand for exploitable labor comes from different types of work, for example, CSW, bonded labor in some industrial and agricultural sectors, domestic work, and entertainment sector (circuses, begging, camel jockeying). The types of work where trafficked labor is used tend to be located in sectors where it is easier to maintain highly exploitative working conditions that are gross violations of human rights and labor standards, in locations and conditions that are difficult to monitor or address through regular means.
- **Coercion and Lack of Consent.** Recruitment and working conditions are characterized by coercion, lack of consent, and lack of control over decisions. Coercion techniques by traffickers range from false promises to threats of—and actual—violence. Trafficked persons are often required to conspire with the perpetrators to avoid detection as they move to the place of work.

Once working, conditions might include debt bondage, slave-like practices ensuring no escape, and reinforcing a sense of absolute “ownership” over the trafficked person through violence, and no control by the trafficked person over their own body or sexuality. It can also be argued that forced “marriages” are a form of trafficking whereby women or girls are used as domestic laborers while being held as virtual prisoners, raped continually by their “husbands” and often forced to become pregnant for the purpose of providing their “husbands” with children.

Trafficked persons fear the consequences of reporting their perpetrators. In many cases families and other community members close to the trafficked person also benefit financially from the process, further limiting the probability of the trafficked person taking action to escape or bring about the severe consequences of prosecution. Survivors know that they are rarely accepted back into their communities. It is especially difficult for women to return as they are usually assumed to have been involved in CSW and are therefore considered to be “ruined” for marriage. Recruiters and those controlling their labor (brothel owners, etc.) play on this stigmatization to ensure the trafficked person does not try to escape.

Care must be taken, however, over the use of the term “consent” and assumptions concerning the ability of any individual to have choice and control over their lives. All individuals have only comparative agency and control over their lives. Home-life experiences for trafficked persons may mean they actually choose to remain in a highly coercive and exploitative situation, as the alternatives are perhaps worse. For some, their families may be in debt from assisting the girl to migrate (even though under false pretences). Being forced to return home before the debt is paid would have worse consequences for the trafficked person than remaining in the brothel until the debt is paid.

There is a continuing debate among stakeholders regarding the extent to which trafficked persons must retain the right to choose to remain in exploitative conditions, even if they are continuing to be harmed. For example, for some activists, all prostitutes (adults as well as minors) should be taken out of CSW as it causes great harm irrespective of their wishes. Others feel that the rights of individual adult women to remain working under

these conditions should be respected. Issues concerning consent and personal agency are highly complex and require programming that explicitly respects the different needs and rights of individuals.

- **Movement.** Human trafficking involves movement and is part of a migration experience—the trafficked person moves from one place and travels to another. This does not necessarily involve movement across borders. However, such movement for the purposes of trafficking should not be confused with voluntary migration, which may result in many benefits as well as involve risks. For example, many attempts to address trafficking have resulted in limitations being placed on women’s ability to migrate. In the long run, this has driven the trafficking process further underground and “. . . a trafficked person’s status as an illegal migrant is often a very effective tool in the hands of traffickers, leaving the migrant vulnerable to further coercion and abuse.”⁶
- **Time Factor.** The time factor is crucial—the process of trafficking has a distinct beginning and end point with many implications for both trafficked persons and perpetrators. For example, harm can be reduced the earlier interception takes place along the time continuum. This also has implications for types of supports required to overcome harm, choices trafficked persons might perceive to be available, and prospects for long-term recovery. If recruiters are to be prosecuted, measures have to be taken quickly after recruitment takes place and before trafficked persons are passed on into the control of the next person in the chain of events.
- **Third Party or Parties Benefit/Profit.** These include all those benefiting as the trafficked persons pass through the hands of a chain reaching from the point of recruitment/deception to the point of use of their labor. All are direct perpetrators of the crime of human trafficking. Understanding the “benefit” for family members or other guardians of trafficked persons is more complex, but has to be taken into account as enforcement measures are designed. Trafficked persons are highly unlikely to take punitive action against their family members, and other community members tolerate from their neighbors what is

⁶ USAID. May 1999. Cited in The Asia Foundation, Population Council/Horizons, “Prevention of Trafficking and the Care and Support of Trafficked Persons,” February 2001, p. 11.

essentially criminal activity in many areas of South Asia. Most attention is paid to prosecuting recruiters, those involved in supporting this process along the way such as transporters (bus and truck drivers, train conductors) and hotel and restaurant workers, who knowingly provide services to traffickers and their victims. Efforts to capture and convict the heads of organized criminal networks have also recently increased, as demonstrated through the adoption of the UN Convention Against Transnational Organized Crime in 2000 by many countries. Less attention has been paid to those exploiting trafficking labor (factory owners, heads of householders using domestic workers), and especially consumers such as clients in brothels who do not question the conditions under which CSW is carried out.

2.2.2 Definitions

In October and November 2000 the Special Rapporteur on Violence Against Women, Ms. Radhika Coomaraswamy, traveled to Bangladesh, Nepal, and India and prepared a report to the Commission on Human Rights on the issue of trafficking of women and girls. In this report she used a definition of human trafficking that is clear and covers the characteristics of human trafficking identified above. This definition is as follows and forms the basis of the analysis carried out by the RETA:

“Trafficking in persons means:

- 1. The recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons: by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage, for the purpose of:*
- 2. Placing or holding such person(s), whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described in 1.”⁷*

The foundation definitions of human trafficking used by activists and other stakeholders are those identified in United Nations (UN) conventions, protocols, or other multilateral instruments that seek to establish norms upon which national and bilateral legislation, agreements,

⁷ Coomaraswamy, Radhika. 2001. op. cit.

policies, and programming can be based. The need to sharpen a common understanding of the process and economy of trafficking has meant that these definitions have evolved over recent years.

The main issues and points of dispute that have arisen concern:

- **Scope of the Definition.** To include a range of outcomes (i.e., beyond trafficking only for the purposes of prostitution). Early definitions made no distinction between: (a) prostitution as a form of labor that can take place in the form of services between two consenting adults; and (b) forced prostitution of trafficked persons. Without these distinctions, any form of prostitution or CSW might be considered as trafficking, providing additional support to those advocating the complete banning of prostitution as a means to combat trafficking. More recent definitions recognize implicitly the right of prostitutes to choose to work in this sector. However, it is important to stress that under Articles 34 and 35 of UN Convention on the Rights of the Child (CRC) 1989, any form of sexual exploitation, sale of, or trafficking in children is an abuse of their human rights.
- **Incorporation of Migration and Other Mobility Trends.** UN definitions do not place trafficking clearly into the context of ongoing migration. Distinctions between involuntary and voluntary migration are unclear in all existing definitions and have not recognized the need to make migration safe for those who choose to move, especially across borders. For example, in response to cases where employers have abused women who migrated voluntarily, some South Asian governments have sought to “protect” women by restricting their right to leave the country as unskilled migrant workers. This implies that any migrant woman who is abused is trafficked, which is not necessarily an accurate reflection of her experiences. This response also excludes unskilled women who still migrate outside their country from any protection from their government once they fall into difficult circumstances. Adult women should have the same rights as adult men to migrate.
- **Distinctions Between Women and Children.** Women and children are particularly vulnerable to trafficking for a series of reasons, but they are not the same reasons. Minors have distinct needs for the protection of their rights. However, under some legislative jurisdictions, women are considered to require the

same protection as minors, restricting their rights as fully-fledged individual adults. This assumption denies women the rights attached to adulthood, such as the right to have control over one's own life and body. The conflation of women's and children's interests also emphasizes a single role for women as caretakers of children without acknowledging the changing nature of women's role in society. Internationally recognized definitions often fail to account for women's increasing role as the sole supporter of dependent family members and, consequently, as economic migrants in search of work. Nearly half of the migrants in the world today are women.⁸

- **Government Accountability for Prosecuting Traffickers.** Many definitions and discussions of concepts of human trafficking also focus on trafficked persons and place less accountability on governments to prosecute perpetrators. The most recent UN definition is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)*, which supplements the *UN Convention Against Transnational Organized Crime (2000)*. It places much greater responsibility on states to punish those responsible for trafficking including consumers of trafficked labor. However, in many countries, such as **Bangladesh and Nepal**, national constitutional protection and legislation do not have similarly comprehensive approaches to address human trafficking.
- **Recognition of Internal and Cross-border Trafficking.** A UN General Assembly (1994) resolution defined human trafficking in a broad manner incorporating many forms of exploitative and oppressive work situations (including prostitution and forced labor of any kind). However, it only included specific cross-border movements and did not cover the extensive internal trafficking that takes place in a region such as South Asia.
- **Capturing Complexities of Individual Circumstances.** The definitions also fail to paint an adequately complex picture of the experiences of trafficked persons who set out on their journeys without overt coercion, and end up being trafficked for a vast range of reasons and situations.

These debates over the scope of definitions of human trafficking may seem distant from taking practical steps to combat trafficking activities

⁸ www.gaatw.org website and information based on data from IOM and ILO among other organizations.

within communities. However, especially for areas where there are strongly held ideological differences (women's rights to movement, sexual choice, etc.), establishing internationally acceptable standards and norms has proven vital in progressing on forming an objective framework for counter-mechanisms to be developed and implemented at national levels. The next step is to identify, within a rights-based framework, how best to address different aspects of the causes and effects of trafficking.

2.2.3 Gender and Human Trafficking

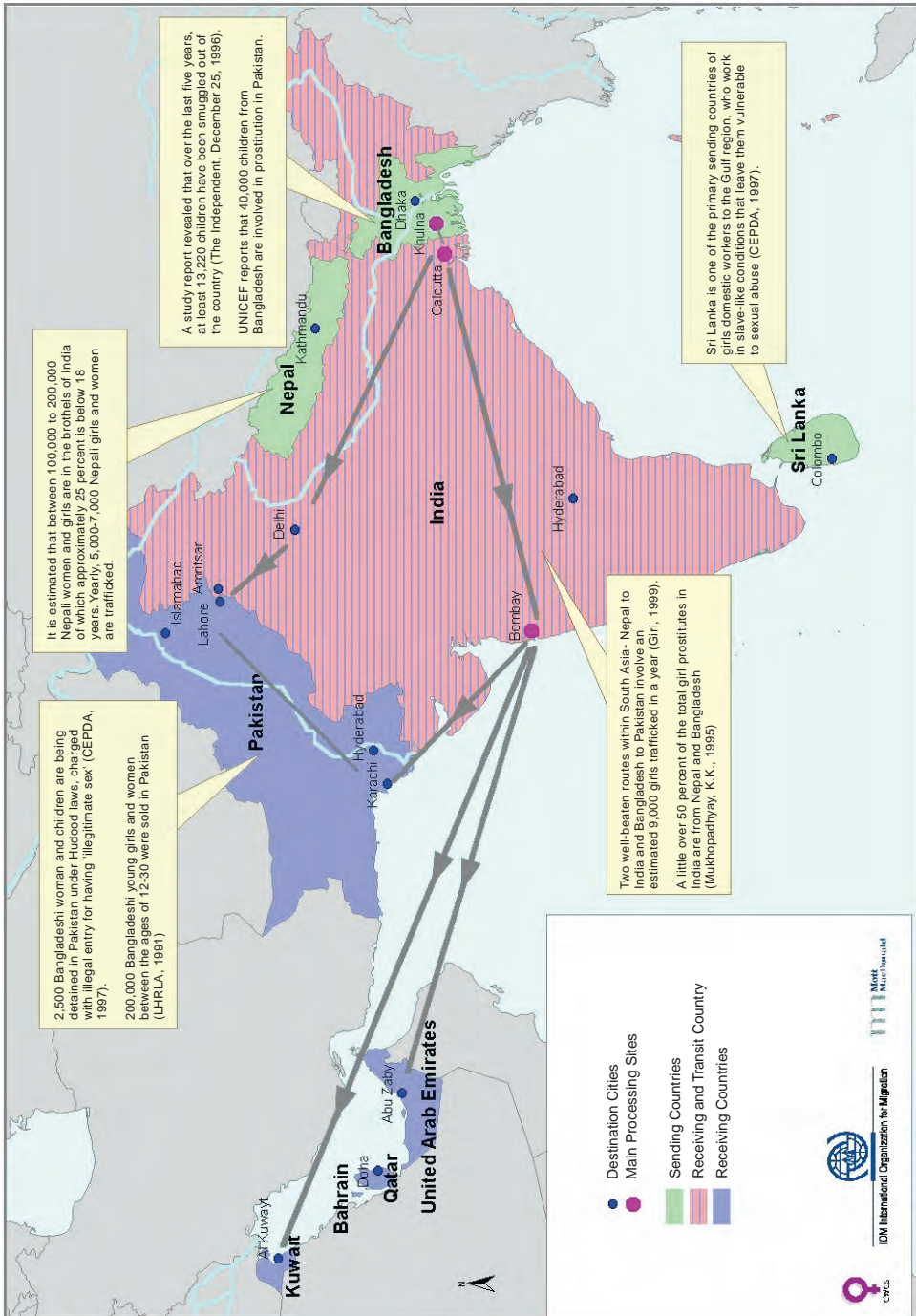
From what data is available in South Asia, it appears that the worst forms of trafficking relate to the illegal movement of women and children for the purposes of exploitation in sectors such as commercial sex work, and child labor of all forms.⁹ Gender discrimination and the low status of women across South Asia results in women and girls having fewer options or means available to them to counter the deceptions of traffickers and are more vulnerable to threats of violence than men. Stereotypes of behavior for young women tend to reinforce a sense of helplessness and of being unprotected without a man, vulnerability quickly recognized by opportunistic traffickers. Women and girls are also most likely to suffer from stigmatization once they return to their communities from such experiences, and have fewer options for alternative survival strategies. Hence the traffickers can increase their control over and isolation of women and girls through fear of further victimization. In cases where their families or guardians push women or girls into trafficked circumstances, many do not see this as harmful, as females are considered chattels of their father or guardian and further protection from their community would be inappropriate. These attitudes create an atmosphere of impunity for many traffickers who seek out those most marginalized by these attitudes.

ADB's strong commitment to redress gender imbalances and to contribute to women's empowerment through its operations provided a strong rationale for the RETA to consider the issues associated with combating the trafficking of women and children, as the most frequently harmed by and vulnerable to its effects. Although most attention in recent years has been paid to trafficking of women and children, it should be taken into account that men are also trafficked. As argued above, while a demand for male labor exists in the sectors most associated with using trafficked workers, control can be exerted more effectively over those

⁹ Skeldon, R. 2000/1. *op. cit.*

most powerless in society—women and children. This apparent lack of interest in male trafficked persons may also be based on the assumption that men “migrate” while women and children are “trafficked.” In South Asia this assumption is prevalent as are similar notions about women’s role in the economy. Public spaces where economic activity takes place are traditionally a male domain. Women are not expected to migrate into these public spaces, and if they do it is assumed to be under coercion. However, women make up 50% of migrants worldwide and a rapidly increasing proportion in South Asia, as they seek ways to meet their own and their family’s basic needs. Many stakeholders are challenging these gendered assumptions, but most of the legal instruments available to combat trafficking within South Asia still apply only to women and children.

Figure 1: Major Trafficking Routes in South Asia



Source: Shamin, I. 2001. Mapping of Missing, Kidnapped and Trafficked Children and Women: Bangladesh Perspective, International Organization for Migration. Dhaka.

2.3 Nature and Extent of Trafficking of Women and Children in South Asia

Trafficking takes place within each of the three countries, and across South Asian borders. **India** and (to a lesser extent) **Bangladesh** also serve as transit countries for traffickers moving people to other destinations. Trafficked persons may also be regular migrants from **Bangladesh** or **Nepal** to **India**, who are then trafficked either to further destinations in **India** or elsewhere.

In South Asia, **Bangladesh**¹⁰ and **Nepal** are the main countries of origin for trafficking, while **India** and **Pakistan** are considered countries of destination or transit to other regions, commonly the Gulf States or Southeast Asia. Kolkata in India, for example is regarded as a major transit point for other destinations. However, large-scale trafficking in persons also takes place within these countries.

Various studies¹¹ have revealed that the traffickers from **Bangladesh** and **Nepal** function through several networks operating both within and outside the countries. In some instances there is evidence that organized criminal groups and other influential players back these networks. The traffickers in most cases take the victims to their destination via circuitous and ever-changing routes, making retracing and apprehension of perpetrators practically impossible. Although the chief actors of trafficking are men, women also play vital roles in luring girls by displaying their lavish lifestyle in their visits to villages, befriending local girls, promising

When Ruma was about 14, she was married to a bus helper. She lived with her husband in a *bustee* (cluster of thatched houses) at Demra, and after 4 years her husband demanded dowry. As Ruma's mother failed to give dowry, she was abandoned by her husband. One day Mustafa in the guise of a job procurer approached Ruma with an offer of a job in a garment factory at Dhaka. Ruma thought the offer to be genuine one and agreed to accompany the man. Ruma had not ever come to the city of Dhaka. So when she was being transported from one bus to another and then taken in a train, she queried Mustafa as to why the journey was so long. ... She and three other girls were taken to India where they stayed for 10-12 days. Then they crossed the border and went to Lahore in Pakistan. Then they again traveled by bus to Karachi where they were interred in a house at Musa Colony. According to Ruma the owner of the house... works in collusion with Mustafa in Bangladesh.

Source: BNWLA, October 1998 special bulletin of Newsletter. p. 2.

¹⁰ There is some evidence of Bangladesh being used as a transit country for trafficking between Myanmar and other destinations, e.g., India or the Gulf States; however, data is limited to anecdotal evidence from rescue operations.

¹¹ Population Council. 2001. *Prevention of Trafficking and the Care and Support of Trafficked Persons*, and Shamin, I. Kabir. 1998. *Child Trafficking: The Underlying Dynamics*.

them jobs, and helping them run away from their homes. It is estimated that 35% of the total number of girls and women trafficked from Nepal to India have been abducted under the pretext of false marriage or good jobs.

Though the traffickers play a major role in the entire trafficking process, many other people directly or indirectly also contribute. Family members, community leaders, and teachers influence motivations and decisions for a person to leave their community and then become caught up in trafficking. Those who benefit from trafficking are also implicated, including various labor agents, promoters, brokers, border police, hoteliers, transport agents, brothel owners and clients, factory owners, and household members who use these trafficked women and children as domestic workers.

The modus operandi of traffickers include luring their victims by means of attractive promises such as high-paying jobs, glamorous employment options, prosperity, and sometimes fraudulent marriages. Parents and other family members are fooled or otherwise blinded by false promises and deception. It has been widely perceived that in many cases family members and other relatives play an important role in recruitment by colluding with the traffickers for which they may receive payment. In **Nepal** this is particularly prevalent in regions where girls have traditionally been sent knowingly by families as entertainers or CSWs, which is perceived as an important source of income for the families.

Along the **borders between Bangladesh and India, and Nepal and India**, the enforcement officers and checkpoints are few in numbers and widely dispersed. Thus it is hard to maintain strict vigilance of who is crossing the border. Border security forces are well aware of the problems of illegal/irregular migrants and trafficking, but do not have facilities or resources to quickly distinguish between different types of migrants. Trafficked persons are usually afraid to admit to their circumstances or are confused, and interviewers may require skillful questioning that takes time to uncover the extent of coercion or deceit involved in each individual circumstance. Enforcement officers sometimes resort to pushing back at night irregular or illegal migrants picked up during the day without distinguishing between trafficked persons and illegal migrants. Although the State is aware of loopholes in the border, systems are unable to adequately address the problem due to institutional, political, and international influences. Those who have been trafficked remain at risk of being found again by the traffickers and sent back across the border, and are generally unable to return home anyway.

In some instances, traffickers cross the border on fixed days of the week at fixed hours. It is said that this is common knowledge in surrounding communities, and NGOs working in areas where this happens have found it difficult to believe that State enforcement agencies are unaware of such activities.¹² It is the common perception of communities living in villages and districts along the border that the network of smugglers/agents are organized and protected.

2.4 Data Collection and Analysis

Due to the clandestine nature of trafficking, perpetrators go to great lengths to hide their activities from any form of monitoring. Prosecutions are rare and fraught with difficulties, and using official crime statistics to ascertain the scope of trafficking presents a very low estimate of its incidence. Consequently figures are estimated and tend to be quoted and cross-quoted in all literature. The most frequently

There are figures quoted and cross-quoted in the literature and reports, but the most cited are: 300,000 Bangladeshi women trafficked to India over an unspecified period and 200,000 to Pakistan. Over 200,000 Nepal sex workers are reported to work in India cities, fully one fifth of whom are supposedly under the age of 16 years.

Sources: J. Sanghera in *GAATW Newsletter*, 6-8 January 1999 and ESCAP, *Sexually Abused and Sexually Exploited Children and Youth in South Asia: A Qualitative Assessment of their Health Needs and Available Services*, Bangkok 2000.

used sources of data include estimates taken: (a) **at origin/source area** – the number of missing persons reported at the community level, from which a proportion can be assumed to have been trafficked; (b) **during the process of movement** – data collected at border crossings for estimates of those moving out of **Nepal and Bangladesh into India**, where they may remain or be moved on to another destination; or (c) **at the destination** – from the point of exploitation, for example studies carried out in brothels in India or Kathmandu, factories in Dhaka or Mumbai, or estimates of domestic workers. Comparisons or crosschecking between these kinds of data are not possible, although general indications can be drawn that the incidence of trafficking is not falling, and that the variety of means and destinations rapidly changes based on demand and in response to avoid efforts made to limit such activities.

¹² Sanlaap. 2002. *Cross-Border Trafficking—Bangladesh and India*.

Reports by UN agencies and NGOs indicate that the smuggling of migrants and trafficking in women and children are on the increase. The UN assesses that globally at least 4 million persons (men, women, and children) are trafficked every year.¹³ Whereas, the Trafficking in Persons Report, 2001 of the US Department of State indicates that 700,000 people become victims of trafficking every year¹⁴ demonstrating the wide variation on statistics available. Most statistics quoted concern the number of trafficked women and children from Bangladesh and Nepal and few identify the number of Indian women and children trafficked out of the country or internally (although estimates suggest that the majority of Indians trafficked are internal¹⁵).

Individuals generally do not identify themselves readily as victims of trafficking, as they are afraid of their captors or concerned that they will be treated as illegal immigrants. Numbers of trafficked persons might be generated from estimates based on visual or linguistic differences among commercial sex workers in general in brothels. It is difficult, however, to identify Bangladeshis from Bengalis in India, and their numbers may be greatly underestimated. Nepalis on the other hand are more physically distinguishable and estimates of their numbers may be more accurate.

2.4.1 Police Records

The number of prosecutions against traffickers is low compared to the estimated amount of illegal activity, and so does not provide a good indication of the extent of criminal activity. This results from a combination of factors including limited resources for the police and other law enforcers, who, in the case of Nepal, are increasingly preoccupied with the now almost endemic civil unrest. Cases are hard to prove and lengthy to take through the court system requiring resources from the plaintiffs and witnesses. A special court has been established in **Nepal** to try and expedite cases of trafficking and other serious charges using judges and lawyers familiar with the appropriate legislation. This court has its limitations, however, as it only sits in Kathmandu, so all those involved have to travel there to appear before the court.

¹³ <http://www.unfpa.org/gender/facts.htm>

¹⁴ US Government. 2001. Report from Bureau of International Narcotics and Law Enforcement Affairs.

¹⁵ Tumulin, K.C.. 2000. *Trafficking in Children and Women in Asia: A Regional Overview* ILO-IPEC. Bangkok.

There is no law on repatriation in **India**, no National Crime Records Bureau (NCRB) category under which to record it, and therefore there is almost no accurate data available. The only data currently available is from NGOs active in rescue and rehabilitation programming for victims of crossborder trafficking.¹⁶

Citing 1999 police records, Assistant Inspector General of Police and the former Director of **Nepal** Police Academy Govind P. Thapa informed the RETA team that out of total 257 suspects in the trafficking cases, 171 (66.79%) were arrested, 10 (3.90%) were released on bail, 119 (46.48%) were remanded in jail, while 22 (8.59%) were convicted for criminal offence.

Micro studies are generally unavailable around the border, and government statistics from the three countries do not provide a comprehensive picture of operations. Discussions by the RETA team with police personnel of Uttar Pradesh and Bihar in **India** indicate the inadequacies of official information on crossborder flows from **Nepal**. No government enforcement agency has been able to collect verifiable data due to complexities in crossborder regulations that vary from country to country. (For example, the Nepalese do not require any papers to reside in India and vice versa.)

Data from destination points is largely concentrated on visible victims, yet once women or children integrate into the local population it is difficult to assess who is an outsider and who is not. Verification of data from red-light areas is necessary to garner an accurate picture of the number of trafficked victims living or working in those areas. NGOs that work in red-light areas held discussions with the women/girls from Bangladesh and Nepal and, to some extent, validated information from other sources such as law enforcers. NGO networks and alliances that have a broad perspective of the crossborder situation were also asked to contribute to this study.

This lack of concrete data has meant that organizations planning and implementing antitrafficking activities must rely upon anecdotal information to plan where activities should be focused. It also makes it difficult to lobby governments. Many myths have also been established concerning the magnitude and nature of trafficking, which need to be re-examined as the migration and trafficking trends shift and respond to economic and social concerns. The urgency of the need for empirical data on trafficking was expressed. However, there is reluctance from many organizations that scarce resources be spent on carrying out extensive,

¹⁶ Sanlaap. 2002. op. cit.

and often flawed, surveys and research projects. This debate was clear during the RETA National Consultation Workshop.

With the signing of the SAARC Convention, closer cooperation between Bangladesh, India, and Nepal can be anticipated. A priority will be linking data on incidence of trafficking in the three countries, i.e., between interstate and crossborder trafficking.

Although it is clear that the data is inconsistent, flawed, and often underestimates numbers of women and children trafficked, what follows is a compilation of statistics on trafficking, broken down by origin/source area, movement, and destination. This information was provided by NGOs, governments, and other information sources. It has helped the RETA team to assess activities and other efforts to stem the trafficking movement.

2.4.2 Data from Origin or Source Area

While there is no reliable data concerning women and children who have been trafficked from **Bangladesh** to other countries, according to estimates by human rights activists in Pakistan, about 200,000 young women and girls were trafficked to Pakistan, continuing at the rate of 200-400 women per month, most of whom end up in prostitution (Tables 1 and 2).¹⁷ According to most reports, Bangladesh and Nepal provide the highest number of trafficked girl children to other countries in South Asia.

The Bangladesh National Women Lawyers Association (BNWLA), in a study undertaken in 1997, cited the numbers of children being trafficked from **Bangladesh** as follows:¹⁸

- 300,000 Bangladesh children work in the brothels of India 4,700 children were rescued from traffickers in the past 5 years;
- 4,500 women and children are trafficked to Pakistan yearly (SAARC and United Nations Children's Fund [UNICEF]);
- 1,000 child trafficking cases were documented in the Bangladeshi media press during the year 1990 to 1992; and
- 69 children were reported being rescued at the border during a 3-month study in 1995.

¹⁷ Lawyers for Human Rights and Legal Aid. 1991. *Annual Report*. Pakistan.

¹⁸ Bangladesh National Women Lawyers Association. 1997. *Survey in the Area of Child and Women Trafficking*. Funded by Red Barnet, Danish Save the Children, Dhaka.

In an attempt to determine the magnitude and trend of the problem, a mapping exercise of missing, kidnapped, and trafficked children and women from **Bangladesh** was undertaken based on 10 years of media coverage from 1990 to 1999 by the Centre for Women and Child Studies (CWCS).¹⁹ It revealed that in 1990, the number of trafficked children was 37. The trend increased until 1997, when the total was 927, with a downward trend since then (Table 3). The study charted the same trend in the case of trafficking in women.

Table 1: Data on Number of Women Trafficked from Bangladesh

No. of Women	Frequency / Time Frame	Destination	Source ^a
200-400	Monthly	–	BNWLA, 2000
24,000-48,000	Annually	–	
200,000 ^b	Over 10 years	–	Rape of Minors
200,000	–	Worry Parents, 1998 Pakistan, India,	Rape of Minors
500	Middle East Daily	Worry Parents, 1998 Pakistan, via India (Press Statement)	BNWLA, 1998
200,000	1990–1997	–	Centre for Women & Children Report, 1998
1% of 500,000 foreign CSWs	–	India	Central Social Welfare Board, 1997; BNWLA, 1997
13	Daily	–	The Daily Ittefak, 1990; UBINIG, 1995
4,000 or more	Annually	–	UBINIG, 1995
50	Daily	–	Approx. 6,000 Annually
27,000	–	Indian Brothels	Centre for Women & Children Report, 1998
10–15,000	–	India	UN Special Rapporteur, 2001

Notes:

^a Full details of the source documents are provided in the bibliography. Table demonstrates great variation in statistics.

^b The figure of 200,000 victims being trafficked to India is used in many sources. The statistic seems to be cross-quoted but the original source never identified.

¹⁹ Shamim, I. 2001. Trafficking in Women and Children: Situational Analysis. Keynote Paper in Experience Sharing Meeting and National Workshop to Combat Trafficking in Women and Children, 7-9 January, 2001. Centre for Women and Child Studies, Dhaka.

Table 2: Trafficked Bangladeshi Women by Year

Year	Total
1997	780
1998	243
1999	54
Total	1,077

Source: Shamim, I. 2001.

Table 3: Trafficked Bangladeshi Children by Gender

Year	Boy Child	Girl Child	Total
1990	20	17	37
1991	75	127	202
1992	97	147	244
1993	88	118	206
1994	113	104	217
1995	240	185	425
1996	197	181	378
1997	490	437	927
1998	331	354	685
1999	32	44	76
Total	1,683	1,714	3,397

Source: Shamim, I. 2001.

However, these statistics have to be used with great caution and cannot be used to draw conclusions that, for example, trafficking is on the decline. The media do not cover all cases, mostly only those that are reported to the police stations. Also when including all missing persons cases, this does not take into account those who have chosen to leave their families and remain estranged, for example those who elope, or are living in insecure family situations. The following tables, however, do provide at least some collation of data that is available through the media.

In source areas in **Nepal**, some micro studies have been carried out in small areas. For example, the Centre for Legal Research and Resource Development (CeLRRD)²⁰ in 1998 carried out a field-based study that

²⁰ Community Action Centre. 2001. *Stock-Taking of Existing Research and Data on Trafficking of Women and Girls – Final Report*. Kathmandu.

compared the number of girls under 18 years who were out of the district at known and unknown destinations. The proportions whose destinations were unknown were high: in 24 village development committees (VDCs) of Sindhupalchowk 1,713 were out of the district, but the whereabouts of 1,168 were unknown (68%). In Nuwakot of the 668 girls out of district, the whereabouts of 473 were unknown (71%). However, such assessments do not take into account that some of these girls may have migrated willingly or to escape difficult circumstances and may choose not to inform their

families of their whereabouts. It is also misleading to project estimates of the volume of trafficking in other areas of Nepal based on micro studies such as the one cited above.

There are also no studies, even at the micro village level, that examine trends in **Nepal**. It is noted in the Community Action Centre Nepal 2001 stock-taking study that in the Sindhupalchowk area where the above field-based study was carried out, local community members interviewed felt that trafficking of girls has in fact been reduced because of the efforts of their communities, the police, and other government agencies. Unfortunately prevention programs currently underway do not monitor such trends systematically, so even project reports and evaluations do not reveal additional useful information. Furthermore, as the definition and understanding of trafficking of humans increase, it might be argued that despite prevention efforts, raw numbers might increase as people are more aware of what trafficking is and no longer tolerate such behavior.

In many communities family members, village leaders, and neighbors may not perceive the removal of a child from a family, or a young woman with few prospects for marriage leaving the community with traffickers, as a criminal act. In many areas this is seen as a viable survival strategy

Some assumptions about the volume and trends in human trafficking are being challenged by recent studies. Another recent International Labour Organization (ILO)-funded study, conducted by Women's Rehabilitation Centre (WOREC) in Nepal, on crossborder trafficking of boys revealed that this practice has been rampant since 1987 and increasing in 1999-2000. The study suggests that plausible reasons behind this increase may be linked to the high rate of population growth among the rural poor and ultra-poor community. The majority of boys are trafficked to India and the main areas of work are embroidery, wage labor, hotel work, and driving.²¹ There are also no studies of other sectors where many trafficking women and children end up, either inside or outside Nepal. The WOREC study also indicates that these boys come from many different parts of Nepal—some are from quite remote areas and patterns are not evident.

²¹ WOREC. 2002. *Cross-Border Trafficking of Boys*. ILO/IPEC, p .9.

for poor families. These attitudes are especially prevalent in areas where the social practice of dowry payment is followed. Dowry is defined as any property given or agreed to be given at the time of marriage in consideration for, or in connection with the marriage. This practice is part of the complex web of ways that gender disparities are maintained; as girls are considered a liability in their families, dowry payments must be procured.

These estimates demonstrate that the areas of high incidence are not necessarily related to overall poverty rates in that region, but in all districts of **Nepal** there are high proportions of the population living in conditions of poverty who are identified as the most at risk of trafficking (Tables 4 and 5). Districts immediately close to the border have a high incidence, especially where there are frequently used crossing points e.g., Birgunj (a dry harbor area), Sunauli, and Kakarbhitta, where traffickers can mingle in with high volumes of other forms of traffic. Regions further from the border tend to be quite well connected by roads or have communities traditionally involved in trafficking girls for CSW. From these estimates it can also be concluded that location and ease of transportation is clearly a contributing factor to the risk of being recruited by traffickers. This confirms that many trafficked persons are those who are migrating for a wide variety of reasons anyway, and are then caught up in trafficked or coerced situations. Table 6 shows the number of women trafficked annually from Nepal.

Table 4: Trafficking-Prone Areas Identified by MWCSW

Eastern Development Region	Central Development Region	Western Development Region	Mid-Western/Far-Western Development Region
Hill/Mountain	Hill/Mountain	Hill/Mountain	Hill/Mountain
Udayapur	Nuwakot, Dhading, Sindhupalchowk, Kavrepalanchowk, Makwanpur Sinduli, Kathmandu, Ramechhap	Gorkha, Kaski	
Terai			
Jhapa, Dhanusa, Sunsari, Morang	Chitwan, Sarlahi., Parsa, Mahottari	Rupandehi, Nawalparasi	Kailali, Dang, Banke

Source: SAP Nepal. 2001. Commercial Sexual Exploitation of Children (A Review of South Asia – Nepal Perspective).

Table 5: Other Districts Not Listed by MWCSW

Eastern Development Region	Central Development Region	Western Development Region	Mid Western/ Far Western Development Region
Hill/Mountain	Hill/Mountain	Hill/Mountain	Hill/Mountain
Ilam, Khotang	Lalitpur	Baglung, Myagdi	Surkhet, Rolpa, Dailekha
Terai			
	Rautahat	Kapilbastu	Bardiya

Source: SAP Nepal. 2001. Commercial Sexual Exploitation of Children –A Review of South Asia – Nepal Perspective.

Table 6: Number of Women Trafficked from Nepal

No. of Women	Frequency/ Time Frame ^a	Destination	Source
5000-11000	Annually	–	STOP/Maiti, 2001
300,000 “globally” 200,000 ^b	–	–	CAC Nepal – 2001
(10% 14-18 years)	–	–	CWIN, 1994
5,000	Annually	–	Ghimire, 2002
5000-7000	Annually	–	Population Council, 2001
50,000	–	-	STOP 2002
100,000–200,000	–	-	ADB RETA 5948, Nepal Country Report 2002
200,000	–	Sex Industry	Population Council, 2001

Notes:

^a Data concerning Nepal indicates, with slightly more consistency, the annual number of women trafficked from Nepal through different sources.

^b The most common figure found in various documents, without citing a source and cross-referred, is 200,000. Variation and inconsistency in data collection makes it impossible to derive trends with any accuracy.

Information provided by the government has encouraged organizations working to combat trafficking to target their activities, prompting traffickers to move away to areas where they will not be noticed. This tendency means that any data needs to be considered as only indicative of a certain period of time, in a rapidly changing and highly fluid situation.

2.4.3 Data Collected During the Process of Movement

Micro studies are generally unavailable around the border and government statistics from the three countries do not provide a comprehensive picture of operations.

Several studies in **Bangladesh**²² have identified that large numbers of children are brought to urban areas as domestic workers, often by their families or trafficking rings. Even middle-class families condone exploitation of these children in their communities. Those children who escape often end up as street children vulnerable once more to being trafficked for CSW. There are no studies on the extent of use of trafficked labor in the industrial sectors, but anecdotal evidence suggests that in the garment sector, for example, many young girls are brought from rural areas under false promises of high wages, and kept in conditions where labor brokers and supervisors demand sexual services in return for finding employment.²³ As the current economic recession hits the garment sector, many thousands of young women are losing their jobs, and many of them are lured or coerced into CSW. Many of these young women also feel they cannot return to their communities to their old life with few income opportunities and restricted mobility, so they are looking increasingly for migration opportunities outside Bangladesh, again putting themselves in high-risk situations for exploitation and trafficking.

There is no data collected anywhere in **Bangladesh** on internal trafficking flows. Rural-to-urban migration has been increasing rapidly in the past 10 years. New arrivals in urban areas are vulnerable to being coerced and exploited by those already settled or by organized traffickers who can easily identify a newly arrived and vulnerable woman or child.

Bangladesh shares a 4,156-kilometer (km) border with **India** that has 20 official checkpoints and out of its 32 districts, 30 districts are on the Indo-Bangladesh border. In Bangladesh, the collection points for trafficked women are usually far from border points. Women rescued in Dinajpur (north) were from Cox's Bazaar (south). Girls from the southern part of Bangladesh are usually trafficked across northern borders.²⁴

One study²⁵ estimates that almost half of the trafficking from Bangladesh to India takes place through Benapole in Jessore District.

²² Blanchet, T. 1996. *Lost Innocence, Stolen Childhoods*. UPL, Dhaka.

²³ CIDA Project Field Manager interview regarding Urban Services for Advocacy and Gender Equality/ NUK Project and based on 2002 unpublished report findings.

²⁴ UBINIG. 1995. *Trafficking in Women and Children: The Case of Bangladesh*. Dhaka, p.19.

²⁵ Shamim, I. and Kabir, F. 1998. *Child Trafficking: The Underlying Dynamics*. Dhaka.

Points like Thakurbairi Chandurila, Kaiba Sultanpur, Chodarpur, Chapainaababgunj, Hili Akhwara, Chuadanga, and Poladanga are other commonly used entry points to **India**.

West Bengal has nine districts adjoining the border that are mostly different from one another socio-economically and culturally. Some are more prosperous and developed agriculturally, e.g., Nadia, where farmers primarily grow jute and betel leaves, is a prosperous area. The Sundarbans area of south/north 24 Parganas is very weak agriculturally, and thus trafficking is a much more common economic activity for communities.

Crossing between Bangladesh and West Bengal becomes a daily routine for many people as they may live in either of the countries and earn their living in the other. Thus, keeping a check of those being trafficked, married off, infiltrating, and immigrating illegally or irregularly is an uphill task and has to be achieved through innovative methods and day-to-day vigilance. Crossing the border takes not more than Rs.50 per person.

"In Kushtia area, some villages are used as stations for the traffickers. Rajshahi border, Bidirpur, and Premtali are used because there are fewer checkpoints. Jessore border is very popular with traffickers. Some hotels and godowns are used to keep the girls brought from different parts of the country. At least 13 women are being trafficked every day. In eight months police could rescue only 28 women who were being trafficked, and arrested 38 traffickers. Usually the traffickers do not accompany the women while crossing the border. Therefore, it is difficult for the border police to arrest them. There are female members in the trafficking gang, who help to hide their identity."

Source: UBINIG. 1995. *Trafficking in Women and Children: The Case of Bangladesh*. Dhaka, pp.19-20.

Having crossed the border, the trafficked victims are mainly kept in West Bengal, and in some cases also in the state of Orissa. They are sorted and graded and sent to different destinations such as Middle East, Delhi, Mumbai, and Agra. Often, they are sold to pimps who then sell them to brothel keepers in red-light areas of Kolkata such as Sonagachi, Kalighat, and Bowbazar. Some are sent to Bashirghat in the neighboring district of 24 Paraganas.²⁶

Under the 1950 Treaty with India, citizens of each country are guaranteed equal treatment. This means in practice that there is no immigration control for **Nepalese** traveling or migrating to India, and

²⁶ Perna. 2002. *Note on Indo-Nepal and Indo-Bangladesh Trafficking: The Maharashtra State Perspective*.

hence no records maintained. Maiti Nepal, an NGO working in the field of combating trafficking, is vigorously involved in interception of possible trafficked persons at the border crossings. The organization stated in an interview with the RETA team that three to four girls are intercepted in eight exit points daily—suggesting an estimate of over 1,200 per year. There is no data maintained of how many of these girls are truly in the process of being trafficked and how many might be running away from their families or migrating for other reasons. According to Armina Lama, Shelter-in-Charge at Maiti Nepal, no database has been maintained on trafficking during the 8-year existence of the organization.

According to research from Kathmandu, most brokers in **Nepal** travel by local buses to New Delhi, then travel by bus or train to Mumbai. Actual routes are changed frequently for fear of being intercepted. India may not be the final nor only destination of the traffickers. Various cases have been noted where Nepalese girls have been trafficked either directly or after spending time in India to places such as Hong Kong, China; Thailand; and Gulf countries.²⁷

“A typical trafficking scenario for recruiting CSW might be . . . Village girls, in most cases, are first taken to Kathmandu either to lodges or to carpet factories on the promises of good jobs or having been kidnapped. From there they are transported by bus or truck to border towns like Biratnagar, Birgunj, or Kakarvitta where they are sold to brokers. Next they are sent to Indian cities like Mumbai, Pune, Calcutta, Lucknow, Surat, or to other smaller cities.”

Source: RETA interview.

As the patterns of trafficking of girls from **Nepal to India** have become established, the incidence of internal trafficking has also increased. Many rural girls are trafficked to urban areas like Kathmandu, Pokhara, Dharan, Nepalgunj, and Birgunj. Girls from rural areas migrate to cities in search of jobs, and a better future but end up in dance restaurants, massage parlors, bus stands, and

wayside *dhabas* (fast food and tea shops) and bars where they are forced to provide sexual services to the customers. CSWs are found all over Nepal especially in large cities, border towns, and marketplaces, but it is unknown what proportion are under age and/or working under coercive circumstances.

In **Nepal** there are estimated to be 26,000 children of the street, i.e., those who both work and live in the street and an additional 3,700 children, who live with their parents but spend most of their time playing

²⁷ Human Rights Watch. 1995. *Rape for Profit*, states that every country of the world is involved in trafficking either as a sender or a receiver.

and working in the street. There is a far greater proportion of boys than girls among the street children. The major cause of this imbalance is that many girls are duped into sexual exploitation.²⁸ Alliance Against Trafficking of Women in Nepal Coordinator Ms. Bhagawati is of the opinion that girl children cannot sustain themselves on the street as they are often abused by both boy street children and the police, and hence fall more easily into trafficking, as they are desperate to survive and will follow anyone.

Table 7: Major Border Regions Used by Traffickers from Nepal to India

Nepal	India
Pashupatinagar	Phatak/Mirik
Kakarbhittha	P.Tanki/Siliguri
Biratnagar	Jogbani
Devangunj	Sonwasi
Jaleshwor	Vittamod
Gaur	Barginia
Birgunj	Raxaul
Bhairahawa	Sunauli
Krishnanagar	Badhhani
Koilabas	Gonda
Nepalgunj	Rupedia
Mahendranagar	Banbasa

Source: Bimala Jnyawali, Chhoree (The Daughter) HimRights/INHURED, 2000.

The border exit points identified above are located in the southern districts that stretch along the border from east to west of **Nepal**. Out of 26 official exit points, 11 have been used traditionally for human trafficking. Since monitoring has been stepped up in the recent years of some of the most frequently used crossing points by NGOs, traffickers appear to be detouring these points. According to Anuradha Koirala, Executive Director of Maiti Nepal,²⁹ despite transport difficulties traffickers are moving to points where monitoring by NGOs is minimal and the risk of interception by border officials is slight. Surveillance of all crossing points is not possible by either NGOs or the government enforcement services.

²⁸ Street Children of Nepal Trust, citing UNICEF 1996 data on their website: www.streetchildrenofnepal.org.

²⁹ From interview with RETA Team.

India is both a destination and transit area for trafficking of women and children. There is no data or discussion regarding India as a sending country. This is an area that needs additional attention, as it would seem implausible that Indians are never trafficked out of India. However, it is estimated that cross-border trafficking represents about 10% of the coerced migrants, with approximately 2.17% from Bangladesh and 2.6% from Nepal.³⁰ Interstate trafficking, therefore, could make up as much as 89% of trafficked victims.³¹ Given this, addressing internal as well as crossborder trafficking issues is essential to any strategic approach at the national level.

The 1999 NCRB report notes that its data on crime rates should be viewed with caution, as a sizeable number of crimes against women in **India** go unreported, largely due to the social stigma attached with reporting. For example, NCRB data indicates that, in 1999, there were 9,368 trafficked women and children. This is significantly less than 1991 data, which reports that 16,000 women were trafficked. Enforcement officials also noted that little priority is given to reporting trafficking activities, as they face many pressures and little available time to investigate and follow up on specific cases.

Discussions by the RETA team with police personnel of Uttar Pradesh and Bihar indicate the inadequacies of official information on crossborder flows. No government enforcement agency has been able to collect verifiable data due to complexities in crossborder regulations that vary from country to country.

Nevertheless, specific findings in NCRB data related to trafficking of women and children include:

- Under the Indian Penal Code, crime at the national level has increased by 15.3% over the last decade. Factors that influence crime rates, such as growing urbanization, unemployment, and income disparity, must be taken into account on a region-by-region basis. Offences under the Immoral Trafficking (Prevention) Act, which contributed 50% of the national share of crimes against women, were only reported from 23 cities, and no aggregation was made between rural and urban crime data.

³⁰ Mukerjee Dr. K.K. and Dr. (Mrs.) Sutapa Mukerjee. 1991. *A Study Report: Female Prostitutes and Their Children in City of Delhi*.

³¹ Ibid.

- Incidence of trafficking under the Immoral Trafficking (Prevention) Act has shown a steady increase since 1997, with an increase of 7.7% over the 1998 rate. Reported crimes against women were highest in Tamilnadu State (10.5%). (The significance of this difference should be treated with caution, as it could indicate a higher level of reporting/registration of cases because of enhanced sensitivity of enforcement agencies and/or greater awareness among the general public, rather than a tendency for increased crime of this kind.)
- The incidence of kidnapping and abduction of women and girls recorded an increase of 6.4 % over the 1994-1998 average.

Information on kidnapping and abduction cases broken down by purpose (i.e., adoption, begging, camel racing, prostitution, illicit intercourse, selling body parts, sale, slavery, and unlawful activities), gender, and location have only been collected since 1998. For example, the total number of cases of kidnapping and abduction registered in 1999 was 15,956. Among the total female victims (69.7%), 1,960 females were reported kidnapped or abducted for marriage and 9,159 for prostitution purposes.

Trafficking operations in Bihar are not much in focus because of the “creative” nature of trafficking of the girls right through the year in the bordering villages of Bihar. Raxual in East Champaran and Jayanagar in Madhubani districts are supposed to be trafficking points. Most policing is done in the area to prevent it. The other districts, which are equally vulnerable, are ignored, i.e., West Champaran, East Champaran, Sitamarhi, Madhubani, Supal, Araria, Kishenganj, and Purnea districts, etc. are all equally vulnerable areas

Source: Aditi. 2002. RETA commissioned report. Bihar.

2.4.4 Data from Destination Points

It has been argued that the traditional practice of ruling classes in **Nepal** of keeping *Tamang* girls from the areas surrounding Kathmandu as servants and entertainers gave impetus to the practice of taking Nepalese girls into the Indian brothels.³² This practice has continued to the extent that ‘it is now estimated that more than 300,000 Nepalese women and girls were sold off to the sex market globally.’ Such estimated statistics

³² Central Department of Population Studies 2001:17 and Ghimire, 1997:6 cited in CAC Nepal. *Stock-Taking of Existing Research and Data on Trafficking of Women and Girls*. Final Report. September 2001. p.15.

and focus on the trafficking of women and girls into CSW provide only a limited picture of the current situation.

According to a regional map drawn in 1997 by the United Nations Children's Fund (UNICEF) there were 5,000 sex workers in Kathmandu alone, of whom 1,000 were children. Studies of brothels in India can also provide an indication of the number of Nepali girls working there, and hence an estimate of the numbers trafficked. These estimates, however, do not account for those women who may have migrated voluntarily or are willingly remaining in this sector.

The most commonly cited estimates are that 5,000-12,000 Nepali girls, aged 12-20 years old, are trafficked out of **Nepal** to other countries for prostitution each year and that an estimated 100,000 to 200,000 Nepali girls and women are currently working in the Indian sex industry.

Table 8: Data on Number of Trafficked Women in Indian Brothels

No. of Women	Nationality	Location	Time Frame	Source
70% of 1,000 to 10,000	Bangladeshi	Kolkata	Over last 5 years	Sanlaap, 2002
800 (140 flying CSWs)	Bangladeshi	Kolkata	1990-1992	Sanlaap, 2002
30,000	Bangladeshi	Kolkata	—	Trafficking Watch – Bangladesh Reuters, 1997
2,000	Bangladeshi	Various cities	—	CATW, Asia Pacific Http://www.catw-ap.org/Ffacts.htm
10,000	Bangladeshi	Mumbai, Goa	—	Trafficking Watch – Bangladesh, Reuters, 1997
200,000	Nepalese	—	—	Ghimire, 1996
27,000	Bangladeshi	—	—	Shamim, 2001
2.7% of women ^a	Bangladeshi	Kolkata	—	Central Social Welfare Board, India 1991

^a Persons trafficked are used for purposes other than prostitution in Kolkata, and would not be included in this table, invalidating projections.

There is no available information on the scope of trafficking for purposes other than prostitution/CSW in the available sources on **India**. In an interview with a representative from Delhi-based NGO, Jaggory, there is evidence of trafficked laborers being used in a wide range of other work than for commercial sexual exploitation. The organization is

currently carrying out research in Gujarat on this topic (supported by United Nations Development Fund for Women [UNIFEM]).

Initially young married women were trafficked from **Bangladesh** to Mumbai but in the past 8 years demand for the young unmarried and minor girls has increased. Many Bangladeshi women are the victims of polygamy. If not divorced they have so-called husbands who live off their earnings. In return, they have the status of being a married woman and a hope that they would return home. In many cases, the husbands are the pimps. Trafficked women prefer to stay away from the conventional red-light areas by renting in smaller tenements at Ray Road, Saat Road, and such other places perhaps because of the fear of raids and police harassment. A number of women claim to have maintained regular family connections and state that they visit their family in Bangladesh occasionally.³³

Najma Begum came to Dhaka with her husband Mannan and settled at the same slum as Amena in 1993. Najma soon came in contact with an organized group of traffickers and with the lure of easy huge money was soon recruited by them. She made friends with Amena and when she got the chance she abducted Rubel (then 4 years old) with the help of Jahangir, Rubel's stepfather. Najma took Rubel to Dubai disguised as her son, going by the name of Shariful. The trafficking gang provided her with passports and all necessary documents. The boy Rubel was only 4 when he was abducted and trafficked to Dubai. Six years later on his return he is only fluent in Arabic and Hindi and does not understand and speak Bangla. Rubel had a long a painful story of physical and mental torture and agony. He lived with three other boys, one Pakistani and two Indians. They all worked as camel jockeys. Rubel expressed his traumatic experiences specially about witnessing a Sudanese boy's plunge to death from the back of a camel during a race. The regulation weight for camel jockeys was 15 kilograms and Rubel was returned to a farm after he became heavier than the regulation weight. He described that they were compelled to work in the desert without adequate food and water in a bid to make them lose weight.

Source: BNWLA. 2001. *Movement Against Trafficking and Sexual Exploitation*. October Special Bulletin. p. 12.

2.5 Conclusions

Discussions at the RETA national consultation workshops pointed out the danger of assuming any accuracy regarding trafficking statistics and data from South Asia. Those researching illegal migration face similar challenges and many important studies do not even venture estimates.³⁴

³³ Perna. 2002. *Note on Indo-Nepal and Indo-Bangladesh Trafficking: The Maharashtra State Perspective*.

³⁴ Skeldon, R. 2000/1. *Trafficking: A Perspective from Asia*. op.cit. p. 14.

However, it was stressed very strongly that while concrete data is not available this does not mean that government and international agencies should discount the magnitude of the trafficking problem. Small studies and individual accounts provide at least indications of the scale of the flows of trafficked persons.

Another cautionary conclusion drawn from the RETA research and national-level consultations is that this lack of concrete data and solid body of research has led to the building of certain myths and assumptions about trafficking that need to be questioned. Some stakeholders are reluctant to see scarce resources channeled into research; however, the RETA findings indicate that there remain several major gaps in information concerning trafficking and its links with other social and economic processes.

There is also mounting evidence that most trafficking episodes take place after legal or irregular migrants reach or are en route to their first destination, for example Bangladesh women in Kuwait.³⁵ It is very challenging to obtain even indicative ideas of how many women are trafficked under these circumstances. As the feminization of migration in and from South Asia is increasing, the modus operandi of this facet of trafficking needs to be better understood to address what is believed to be a growing problem. However, any measures taken to address this form of trafficking should not restrict women's freedom of movement. Measures to prevent trafficking should be counterbalanced by support for providing safe migration options and recognition of the importance migration plays in increasing the survival options of both women and men and their families.

As traffickers are driven by a strong profit motive and fear of being intercepted, the routes and means used are changed frequently and respond very rapidly if new efforts are taken up to combat trafficking. Ongoing research and other mechanisms are required to keep up with the fluctuations, trends, and patterns.

There is also a range of other initiatives that could improve the monitoring of crossborder flows of trafficked persons, while contributing to combating trafficking itself. For example, increasing birth registration and hence improving the reliability of travel documents and tracking of individual cases of missing persons, training for enforcement officers in all three countries to identify trafficked persons and question assumptions regarding an individual's status, etc.

³⁵ Blanchet, T., et al. 2002. *Beyond Boundaries, A Critical Look at Women Labour Migration from Bangladesh*. Report for USAID, Dhaka.

The commitments made by each RETA country under the SAARC Trafficking Convention include:

Article VIII, subsection 5:

The State parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land, water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods operation, police records and records of conviction.

Article VIII, subsection 7:

The State Parties to the Convention shall endeavor to focus preventive and development efforts on areas, which are known to be source areas for trafficking.

Both of these subsections imply that there will be increased efforts made to collect, analyze, and exchange data among signatory countries. Individual governments have already recognized the need to improve their understanding of the dynamics and scope of trafficking in order to develop more effective antitrafficking programs and services, and any increased crossborder collaboration will benefit all stakeholders.

CHAPTER 3

DYNAMICS OF TRAFFICKING OF WOMEN AND CHILDREN IN SOUTH ASIA

3.1 Introduction

Despite the lack of hard data, a complex set of factors can be identified that contribute to the persistence of human trafficking. These factors are the product of evidence based on years of working with trafficked persons and survivors, tracking the prosecution of perpetrators, and following other sources of information.

In order to explore these complex factors, it is useful to consider factors that **push** the vulnerable into situations of high risk to be recruited by traffickers. There are also **pull** factors that encourage young people or those already living in dangerous circumstances to seek out more glamorous or sustaining life options than they feel are available in their own communities. Once mobile, some of these migrants are more vulnerable to being coerced by traffickers, for example, children (particularly girls) and women who have less exposure to the world outside their villages and few survival skills in new circumstances. As quoted by Coomaraswamy: “traffickers fish in the stream of migration”³⁶ and can identify those who are most easily deceived or coerced.

“Conditions of poverty, ... is a great force that drives an individual to think the unthinkable and do the undoable. The desperate need for money and the lack of alternate means and ways to generate income creates an environment where a faint-hearted individual can easily succumb to the temptation of wealth that the sex industry has to offer. Under such conditions the ethical values of a community is severely put to the test, and it may just be a matter of time before the ends start justifying itself as the means cease to matter.”

Source: Maiti Nepal. *Is Poverty the Only Reason?* Newsletter, Vol. 1, No. 4, May – June 1999.

³⁶ Coomaraswamy, Radhika. 2001. op. cit.

Structural changes in the economies of these countries have resulted in loss of livelihood for many subsistence farmers, through commercialization or declines in productivity/returns for certain crops. The proportion of casual workers has increased in the agriculture sector, thereby demanding flexibility and mobility from the labor force. For women, the casualization of female labor increases vulnerability to trafficking. Landlessness is also increasing in some countries for varied reasons—pressure from increasing population density, environmental erosion, natural disasters—without corresponding increases in employment opportunities in other sectors. There have been substantial livelihood losses in areas where the demand for traditional skills is declining (for example for weavers in India). These conditions lead to increasing numbers of women and men moving in order to seek alternative livelihood options—and hence become more vulnerable to being trafficked.

Despite these complexities, some generalizations are useful to assist in identifying those who are most vulnerable to being trafficked and strategies to overcome these vulnerabilities; and to assist in interception, rescue, and effective integration of survivors back into communities of their choice with improved life options.

3.2 Links between Trafficking and Migration

Links between trafficking and migration are clearly evident in most accounts of trafficked persons. Some argue that, while trafficking involves human rights abuses, it fundamentally involves movement of people and should perhaps be better understood by using migration theory. The fact that a vast majority of trafficking episodes start **after** migration or movement from one place to another has already begun validates the need to look at what causes people to move, and why they are vulnerable to being trafficked during movement. This is a starting point to understanding the factors contributing to human trafficking.

In Bangladesh, a stakeholder-led Thematic Group on Counter-Trafficking (coordinated through the International Organization for Migration [IOM]) has been meeting regularly, seeking to clarify various aspects of human trafficking. This group identified the following needs or motivations that compel a person or an agent of a person to move them from one situation to another, i.e., migrate. These factors do not apply only to Bangladesh, but to migration in general:

- To meet basic needs, e.g., food, shelter, clothing, health;
- To increase security to ensure sustainability of basic needs over time;
- To increase status and/or income;
- To escape stigmatization from incidents such as incest, rape, former sex worker, divorce, widowed;
- To respond to or avoid social considerations, e.g., marriage without dowry, elements of society that limit women's personal development, political oppression, etc.;
- To take up adventure based on a desire to experience life and explore the world; and
- To obtain emotional stability for many reasons such as dysfunctional family situation or need for emotional support system.³⁷

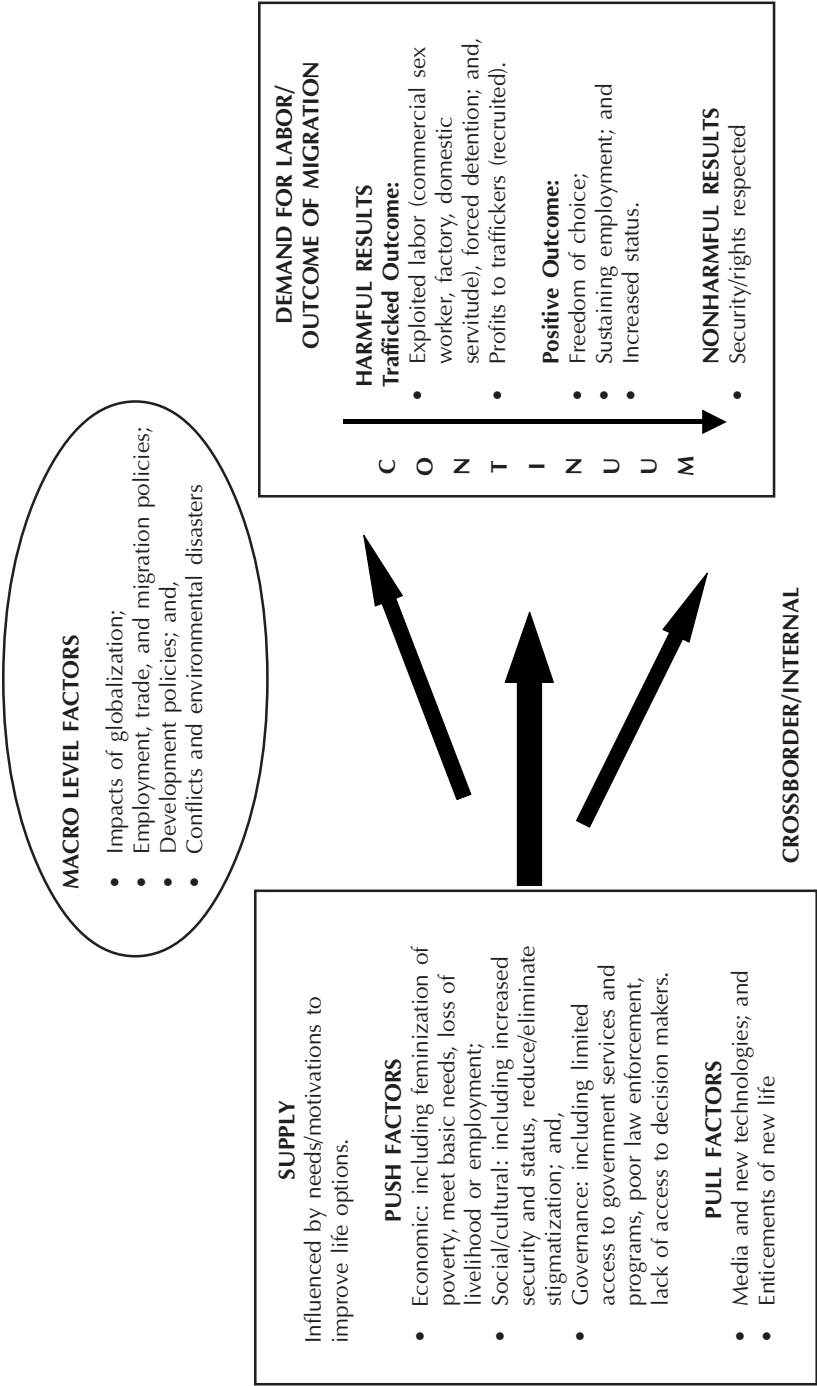
These motivations and/or needs are influenced by a series of agents, including other family members, recruiters, smugglers, traffickers, returnees or other migrants, community leaders, and neighbors.

A series of factors also hinder or facilitate a person through a migratory process that can result in either a positive outcome (where needs are met or motivations achieved) or a negative outcome (such as the consequences of being trafficked). Examining the needs and motivations that initiate the migratory process and the factors that influence the outcomes can help to identify activities to reduce the vulnerability of those most at risk to being trafficked.

Figure 2 illustrates these broad categories of these factors and how they can be seen to link together.

³⁷ Bangladesh Thematic Group on Counter-Trafficking. 2002. Matrix (unpublished).

Figure 2: Dynamics of Human Trafficking



3.3 Supply

The most commonly identified push factor that starts the trafficking process is **poverty**. The necessity to meet basic needs, **in combination with** other factors (as identified above) is the most commonly identified motivation to migrate or to encourage a family member to leave. Those most vulnerable to trafficking generally come from the poorest and marginalized segments of communities.

However, a simplistic view of poverty based on low-income levels or livelihood options does not assist in understanding why it is that women and children appear to be the most vulnerable to negative outcomes from migration, such as trafficking.

An understanding of the noneconomic elements of poverty—lack of human and social capital, gender discrimination—also helps identify the most vulnerable to marginalization from the development process and, simultaneously, to trafficking. Governance issues also play a role in allocating resources and services in a community; those living in poverty tend to have limited access to these development opportunities, further reinforcing their vulnerability to trafficking.

3.3.1 Development Context in South Asia

Despite **Bangladesh's** low human development index, which is lower than most South Asian countries, there has been a decline in those living below the poverty line from 47% in 1996 to current levels of 45%.³⁸ Some key social development indicators have improved, for example the education gap between male and female primary school enrollment, which stood at 22% in 1985, declined to 3% over the past 15 years.³⁹ Health indicators, however, remain poor, especially for women, reflecting the limited services available and general conditions of poverty for such a large proportion of the population that result in malnutrition and the many associated health conditions.

While women in Bangladesh have much lower skill levels than men, their contribution to the economy is largely unrecognized. Women are still primarily involved in the nonmonetized sector and subsistence activities, and hence tend not to be reported in macro statistics. Women make up a disproportionately high percentage of unpaid family workers

³⁸ ADB. 2001. *Country Strategy and Program Update, Bangladesh*. paragraph 7.

³⁹ ADB. 2001. *Women in Bangladesh*. p. 9.

in agriculture and informal manufacturing sectors, and as such are the most underemployed. When women do receive wages in the informal sector, there are wide gender differences. Women's participation in the formal work force has increased, as the demand for low-cost, unskilled labor has grown in the urban areas, particularly in the garment sector. Again, though, wage gaps are significant, "... in the readymade garment and weaving apparel industries, where there is roughly a 2:1 ratio between women and men, a woman receives less than 22-30% of what is earned by her male colleagues. This is because men still predominate in more skilled occupations.⁴⁰" This sector, the only one with high levels of female employment opportunities, is now in recession and may not recover as preferential tariffs under the Multi-Fibre Agreement are phased out.

India invests far less in its women workers than in its working men. Women also receive a smaller share of what society produces: they are less endowed than men with health care, education, and productive assets that could increase their return to labor. Women's nutritional levels are lower than men's; more women than men die before the age of 35. Three-fourths of Indian women are illiterate. Some 90% of rural and 70% of urban women workers are unskilled.

While women are vital and productive workers in India's economy and make up one third of the labor force, there is a statistical *purdah* imposed by existing methods of measuring labor that renders much of their work invisible. When work such as collecting fuel and fodder or working in dairy, poultry, or kitchen-gardening is added to the numbers of those who work in the conventional labor force, women's participation rate in the economy totals 51%, only 13 percentage points below the rate for men.

Macro-economic reforms have resulted in an increasing commercialization of agriculture throughout India. This has resulted in:

- Labor-intensive cropping patterns replaced by capital-intensive systems, particularly in the coastal districts;
- A shift from paddy production to cash crops. As a result, many women have been forced to work as day laborers on farms where wage differentials between male and female workers are high; and
- Increasing need and demand for occupational skills, leading to an institutionalization of gender bias in agricultural and natural resource industries. There is little opportunity for unskilled labor.

⁴⁰ Ibid, p. 12.

The impact of structural-economic change in the agricultural sector in India seems to have increased the proportion of casual workers, thereby demanding flexibility and mobility from the labor force. For women, the casualization of female labor increases vulnerability to trafficking.

Livelihood loss is directly linked to vulnerability to trafficking. There has been substantial livelihood loss in the fishing, weaving, tobacco, and cotton sectors in India, which has contributed to increased vulnerability. In the fishing sector, for example, the depletion of resources and nonimplementation of the Marine Fishing Regulation Act and Aquaculture Bill have facilitated conglomerate takeovers in the industry, forcing many men to seek wage labor on the roads and women to seek income from whatever means available.⁴¹

An examination of the highest source for trafficking of women and children in Southern India reveals that trafficking is more common in areas that are prone to drought or other natural disasters, situated in less-productive agro-climatic zones and where large numbers of families live below the poverty line. Those who make low wages, if any, are functionally landless; one third of women and girls in CSW in metropolitan cities were from drought prone-areas, clearly supporting the link between poverty, powerlessness, and vulnerability to trafficking.⁴²

Development Conditions in Trafficking Source Areas in India

Kerala: The impact of World Trade Organization regulations and international fluctuations in market prices in the rubber, coconut, and coir industries have led to deepening economic crisis. Two transitions have been particularly important: the move from paddy cultivation to cash crops and the decrease in cash-crop wage earnings. Women from landless and marginal farmer families, most of whom struggle to make sufficient wages through cash crop labor, have been particularly vulnerable to trafficking. In coastal areas fisher women are migrating, in search of work, to prawn-processing areas in south Gujarat and Maharashtra. Kerala has also experienced the export of housemaids to Gulf countries, where women are frequently trafficked into commercial sexual exploitation

Western Orissa: It is estimated that 80,000-100,000 people from drought-prone areas have left to work in Upal, Potangcheru, Dundigal, Tukuguda, Kisra, and Bularam, as well as the suburbs of Hyderabad for a handful of broken rice. It is a process, which began almost 10 years back, that gets stronger by the day. Now, each village boasts of a labor contractor, often without license. The conditions of work are severe and wages are very low; for nearly 6 months the laborers in these kilns mainly depend on broken rice or "kanki"... Cases of missing people and death are high.

⁴¹ Network Against Trafficking and Sexual Exploitation. 2001. *Concept Note: On Trafficking, India*.

⁴² Mukerjee, Dr. K.K. 1997. Paper presented to Joint Women's Programme (JWP) Seminar, Delhi.

Cont'd... (Development Conditions in Trafficking Source Areas in India)

Bihar: In several areas around Ranchi 40-50% of the population migrates during the lean season (6 months) to far-off brick factories.

Madhya Pradesh: In Panna district several thousand tribals are employed in stone quarries and live in migrant shanties near the quarry sites. Contractors and other personnel tend to exploit women and only provide insecure dwellings.

Andhra Pradesh: Nearly 4,000 handloom weavers have been forced to migrate to Tamilnadu to find work. A study of six districts in Andhra Pradesh found that there has been a large increase in trafficking activities that correlates with the fall in handloom markets. Similarly, Saurashtra weavers have migrated to Southern Tamilnadu, where it is reported that nearly half of the women have been caught in the trafficking cycle.

Sources: Interviews by RETA team, ActionAid Report 2001, and NATSAP Report, 2001.

Nepal ranks as one of the world's poorest countries with a per capita gross national product of \$220 a year. Gross domestic product (GDP) grew by 6.4% in 2000 compared to 4.4% in the previous year. About 42% of the population lives below the national poverty line of Nepalese rupees (NRs)4,400 (\$77) per capita per annum, which is based on minimum caloric intake, housing, and other nonfood standards. ADB's recent poverty analysis for Nepal shows that poverty incidence, intensity, and severity have not improved over the past quarter century, a finding mirrored in the country's human development indicator scores. The poverty analysis confirmed that poverty is much more prevalent, intense, and severe in rural areas, where poverty incidence (44%) is almost double that of the urban areas (23%). The incidence of poverty in the mid-and far-western development regions and in the mountain districts⁴³ greatly exceeds the national average.⁴⁴

Women's contribution to the economy in Nepal is significant but continues to be largely unrecognized. Only recently some policies and programs have been developed that target women as entrepreneurs or economic growth agents or that increase women's access to economic resources, paid employment, training and promotion, as well as laws guaranteeing healthy and safe working conditions.

Women are still primarily engaged in the low-productivity, low-wage, and high-underemployment agriculture sector. Work participation starts at an early age, especially in this sector. Women are simultaneously engaged in reproduction, household work, and income generation. For

⁴³ Nepal is divided into the *terai* (flat plains), middle hills, and mountains.

⁴⁴ ADB. 2001. *Country Strategy and Program Update (2002-2004), Nepal*.

example, 70% of labor and 26% of farm-level decision making in livestock raising is made by women.⁴⁵

3.3.2 Feminization of Poverty

There remains in South Asia extensive persistent poverty and the evidence that women are disproportionately excluded from development opportunities through deeply rooted gender-based discrimination. The following table provides some basic indicators drawn from the Gender-Related Development Index in the United Nations Development Programme (UNDP) *Human Development Report 2001* for the three RETA countries as compared to the Philippines, demonstrating the greater gaps in development achievements between women and men in South Asia.

Table 9: Indicators Comparing Gender Gaps for Philippines, Nepal, India, and Bangladesh

Indicator*	Philippines		Nepal		India		Bangladesh	
GDI ranking	62		120		105		121	
	Women	Men	Women	Men	Women	Men	Women	Men
Estimated earned income (PPP US\$)	2,684	4,190	849⇐	1,604⇐	1,195⇐	3,236⇐	1,076⇐	1,866⇐
Combined enrollment in 3 levels of education (%)	84	80	49	76	49	62	33	41
Adult literacy	94.9%	95.3%	21.7%	56.9%	43.5%	67.1%	28.6%	51.1%
Maternal mortality per 100,000	170		540		410		440	

Source: UNDP, *Human Development Report 2001*.

* All data provided is from 1999.

⇐ No wage data available. For purposes of calculating the estimated female and male-earned income, as an estimate of 75%, the unweighted average for the countries with available data was used for the ratio of the female nonagricultural wage to the male nonagricultural wage.

Given these statistics, it would appear that there is considerable feminization of poverty in South Asia, based on a UNDP definition of three indicators:⁴⁶

⁴⁵ Ibid. p. 29.

⁴⁶ UNDP. 1998. *Report on Poverty Indicators*.

- *Women compared to men have a higher incidence of poverty, especially among female-headed households* – in RETA countries, estimated earned income comparisons between women and men in the table above demonstrate that women consistently earn considerably less than men in all three countries (almost three times less in India). For example, 95% of female-headed households in Bangladesh are considered to fall below the poverty line and represent perhaps as many as 20-30% of all households;⁴⁷
- *Women's poverty is more severe than men's poverty because of lack of access to resources and very low rates of human capital among women (education, health etc.)* – as illustrated by comparisons between adult literacy rates; enrolment rates in primary, secondary, and tertiary education; and significantly higher maternal mortality rates than achieved in other Southeast Asian countries, such as the Philippines; and
- *Over time, the incidence of poverty among women is increasing compared to men*, as, for example, there are fewer employment opportunities for women without appropriate skills to fill emerging job sectors, and women are less mobile and able to seek income-generating opportunities either overseas or in their own countries.

In 2000 UNIFEM published a biennial report – *Progress of the World's Women*⁴⁸ – that demonstrates that women's share of employment in industry and services in India and Pakistan (no data was provided for Bangladesh and Nepal) has hardly increased between 1980 and 1997 and remains the lowest for Asia.

All three RETA countries invest less in their women workers than in their working men despite women's economic contributions. Although the causal factors vary from country to country, certain generalizations can be drawn:

- Women's flexibility and cheap labor are sought in both the formal and informal sectors where they are forced to use simple technologies and limited resources;⁴⁹

⁴⁷ ADB. 2001. *Women in Bangladesh*, p. 19, provides indicators demonstrating the increase in female-headed households and other poverty-related indicators.

⁴⁸ UNIFEM. 2000. *Progress of the World's Women 2000: Biennial Report*.

⁴⁹ ADB. 2001. *Women in Bangladesh*, p. 9.

- Systemic gender-related inequities, for example unequal access to land, productive resources, information, and skills and education, in addition to continuing inequity in the labor market and harassment at work, enhance women's vulnerability to economic change;
- Women also maintain primary responsibility across South Asia for domestic tasks and shoulder these multiple tasks even under conditions of economic and social stress; and
- Women's low status is most dramatically reflected in the fact that in all seven countries in South Asia there are fewer women than there are men. The negative sex ratio can be attributed to excess mortality of women and girls resulting from both direct and indirect discrimination in the provision of food, care, medical treatment, education, and above all physical and sexual violence.⁵⁰

It can also be argued that the feminization of poverty in South Asia is accompanied by the feminization of survival strategies. In hard times, women are more likely than men to exploit every possibility for work or income, including precarious activities and poorly paid work at home or in the informal sector (including provision of sexual services). More women in South Asia are now moving to take up employment opportunities in urban centers, seasonal agricultural work, or unskilled work in foreign countries. These decisions are hard for women to take compared to men, as they might have to find alternative child care, and they face harassment and discrimination in public spaces and the workplace. Women are also more vulnerable to the negative social effects of economic restructuring and recession as they are generally unskilled. Programs and services developed by the government to address unemployment are less accessible to women and investments in women's skills and opportunities (that would increase overall family status) are rarely made.⁵¹

According to ADB's study in 1999, *Women in Nepal*, the incidence of poverty among female-headed households is not comparatively higher than among male-headed households. The report concludes, however, that:

⁵⁰ Sen Gupta, Rina. 2001. Prevention Care and Support and Reintegration: Program Models in Bangladesh. Paper presented in the Technical Consultative Meeting on Anti-Trafficking Programs in South Asia, Kathmandu, September 2001.

⁵¹ World Bank. 2001. *Engendering Development: Through Gender Equality in Rights, Resources and Voice.*,

...the “feminization of poverty” in **Nepal** should be viewed in terms of the concentration of women in low-productivity agriculture and in unskilled low-paying jobs in the nonagricultural sector, and in terms of the impact of poverty on women and girls. Because of social discrimination, the impact of poverty on access to food, health, nutrition, and educational facilities, as well as on workload, is more severe on women and girls in poor households. Women have less access to employment opportunities and earn lower wage rates, hence greater difficulty in escaping poverty. Proportionately more girls than boys have to work for survival.⁵²

This conclusion is reinforced through data that while women’s involvement in the economy is increasing, their contribution to GDP is falling, leading to greater economic marginalization.

Discriminatory practices such as gender-based wage differences and harassment by employers and other men seeking to deny women equal access to the marketplace have not been addressed. Government agencies have also rarely delivered economic development programs directly to women to improve productivity and incomes in the informal sector. NGOs have had more success with microfinance projects that also build skills and introduce new technologies and trades. However, few of these are targeting urban areas, where so many women are now seeking survival strategies.

To tackle these obstacles, a more gender-sensitive approach is required in the formulation of economic and social development policies and programs to ensure that women benefit from development and are offered opportunities for empowerment.⁵³ At the same time it is vital to recognize that many poverty reduction programs for women will encourage greater mobility and migration of women. Even as poverty is reduced, exposure to the risk of trafficking will increase for these women, unless there are accompanying programs to provide safe and secure transportation, access to food and shelter in destination areas, and services such as help lines, effective protection from criminals by law enforcers, etc. Women need long-term (i.e., not project-dependent) livelihood opportunities that provide competitive earnings and working conditions.

⁵² ADB. 1999. *Women in Nepal*, p. 37.

⁵³ Buvinic, Mayra. 1995. *The Feminization of Poverty, Research and Policy Needs in Reducing Poverty Through Labour Market Policies*. Geneva: International Institute for Labour Studies.

Tin Roofs⁵⁴

Locals say that the sex trade in Nepal originated in the supply of Tamang and Sherpa girls of this region to the feudal Rana court of Kathmandu. There is a trafficking network which today continues to supply young women of Sindhupalchowk to Indian cities, and the fact that the locals are fully engaged in this supply is evident from the names of some of the largest brothel owners in Bombay: Lata Sherpa, Mala Tamang, Kabita Sherpa, Anita Sherpa, and Maya (Tamang) Chauhan—all names which indicate the origin of the women in Sindhupalchowk. Vinod Gupta and Sanjay Chonkar, social activists in Bombay, say that in addition to these top five, there are many other small-time Nepali *gharwalis* (madams) engaged in running some of the hundreds of bordellos of Bombay. Unlike other equally poor hill districts of Nepal, Sindhupalchowk has concentrated on this particular export trade. It has helped that powerful *gharwalis* from this region rule the roost at the Bombay end.

Ichowk is popularly known as *Sano Bamba*i (Little Bombay). From across the Melamchi river valley, in the afternoon sun, Ichowk's tin roofs reflect a prosperity that is said to come from earnings of its women in Bombay. There was, apparently, a direct link between a daughter in Bombay and a tin roof above one's head in Sindhupalchowk. Shyam Karki, schoolteacher in the village, said that the old man often traveled to Bombay to collect money from his daughters. "Up to 200 families in this village have sold their daughters, mostly 12-15 years old." Sashi Tamang, a 14 year-old girl rescued from Kamathipura and now living at the Kathmandu shelter home of Maiti Nepal, confirms parental involvement in trafficking. In the brothel to which she was sold by her own neighbor, Sashi remembers meeting at least 50 Nepali girls, a majority of them from Sindhupalchowk. The very women who have been trafficked by their parents, or by middle-men (and -women), are more than willing, in the role of brothel managers and *gharwalis*, to encourage the export of more young women from Sindhupalchowk to Kamathipura and Falkland Road.

3.3.3 Causes of Vulnerability to Trafficking

(a) External Factors

A range of policies and environmental circumstances also influence the incidence of poverty and vulnerability to risks for migrants to being trafficked. For example:

- **Impacts of globalization** have included the spread of modernization with greater access to transport, media etc., but also for many, the disappearance of traditional income sources and rural employment, pushing the poor and unskilled to migrate to survive. Asia has also become a center for low-cost, labor-intensive manufacturing operations. Competition among countries in South Asia has driven the cost of labor down further,

⁵⁴ Naresh Newar. 1998. *My Sister Next? Himal* magazine. October.

encouraging some employers to use illegal practices (such as bonded labor) to access cheaper labor sources.

- **Conflicts and natural disasters** that force communities to move, often *en masse* to meet their basic needs. When individuals within those communities have no skills or education, and are exposed to health risks, their capacity to secure sustainable livelihoods is limited, and their risk to trafficking heightened.
- **External migration policies** that exclude many unskilled people, particularly women, from legal migration and are therefore forced to seek alternative livelihood options through illegal means. Human smugglers offer forged documents or transportation to other countries where they promise to link migrants with job opportunities. These are often the same smugglers who traffic labor (i.e., coerce migrants into certain types of work, create debt-bondage conditions, or refuse migrants freedom to return home). Those working in illegal situations are more susceptible to coercion by traffickers. It is anticipated that migration policies will continue to discourage migration of unskilled labor, or that labor movements will be confined within South Asia and to certain Southeast Asian countries and that this situation will continue. These countries have poor records of protecting the rights of irregular and illegal migrants or trafficked persons, which perpetuate conditions that offer profits to opportunistic traffickers. For example, there is currently no migration policy in place in **Bangladesh** to address the impacts of these trends, or to promote development benefits from safe migration.

(b) Poverty

An examination of the highest source areas for trafficking of women and children in **Bangladesh** points towards a need for those living in poverty to seek to meet their basic needs, through whatever means available. For those at risk of (or already living in) conditions of poverty, underemployment and unemployment remain high, and levels of functional landlessness are increasing because of population density, environmental erosion, or natural disasters without corresponding increases in employment opportunities in other sectors. In the industrialized sectors, the proportion of casual workers has increased, and structural change in many sectors is leading to dislocation and

unemployment for thousands. These conditions lead to increasing numbers of women and men moving in order to seek alternative livelihood options—and hence becoming more vulnerable to being trafficked.

Poverty drives many to take “unthinkable” decisions and commit “undoable” acts that might include the handing over of a child to either another family member or even a stranger on the promise of offering a better life for them. These promises may also include the prospect of sending back remittances to help other family members. There are many cases in **Bangladesh** of families of young girls being trafficked to brothels in India openly acknowledging that their daughters are living under difficult and harmful circumstances, but seeing no other option for their survival.

Living under these conditions of extreme poverty also means that the promises of good jobs in places such as Mumbai and Delhi encourage people to migrate without a clear idea of what they will find outside their communities (see discussion below regarding safe migration).

In **Bangladesh** “the site for recruitment [for trafficking] is usually a poor area marked by food insecurity and unemployment. For example, in the northern districts of Bangladesh women can find only seasonal work at very low wages. Thus, parents do not delay in accepting offers of marriage or employment for women and children particularly where there is promise of payment.”⁵⁵

Agro-forestry, Basic Health and Cooperative (ABC) **Nepal** recently conducted a situation analysis research in two traffic-prone areas of Sindhupalchok, namely Ichowk and Mahankal. When asked about the reasons for girl trafficking in Ichowk village committee, the majority of the respondents in both the VDCs said that they had no other option open to them. They said that income-generating activities for women of the villages were not available. Without another source of income, women may be more easily lured to the glamor and money associated with going to the brothels in India than if there were additional alternatives.⁵⁶

The poverty-migration-trafficking nexus is also found in **India**, which is described in 3.3.1.

⁵⁵ Hussain, Hameeda. 2000. Proposal for a Plan of Action to reduce trafficking in adolescent girls and young women from Bangladesh, prepared for the UN International Partnership Fund, Dhaka.

⁵⁶ ABC Nepal (undated but recent). *A Situation Analysis Report on Girls Trafficking in Sindhupalchowk, Mahankal and Ichowk Village Development Committees*. Kathmandu.

(c) Internally Displaced Persons (IDPs)

IDPs are also highly vulnerable to being trafficked. The term IDP does not share a universally agreed definition by the international community. Conditions such as violence, human rights violations, environmental disaster, natural calamities, political unrest, and loss of land and property all displace families forcing them to search for places of refuge. As IDPs are generally without resources and without official residence or government recognition, their status makes them more susceptible to adverse situations such as trafficking.

In **Nepal** the escalating insurgency by the Maoists in the past 6 years has forced many thousands of women and children to leave their communities. Social disintegration and overall economic decline is intensifying the numbers of *de facto* IDPs. It is estimated by some that nearly one third of the total male labor force has emigrated to India or other countries for menial jobs and mercenary services. The armed conflict is interrupting basic services, restricting development assistance, and breaking down family and community networks as men either join the conflict or migrate to seek employment elsewhere to support their families. This has left many women in the affected districts looking after their children alone and scraping together an income under increasingly difficult circumstances. Women are also vulnerable to rape and sexual exploitation that are common features, if not actual weapons, of conflict. This type of suffering is leaving deep psychological wounds, which can severely undermine the capacity of both women and their communities to recover; and women are crucial to the recovery process of both their families and the wider community.

Many thousands of women and children are moving to Kathmandu in particular. According to the Mayor of Kathmandu Metropolitan, Mr. Keshav Sthapit, the buying and selling of land property as well as building houses have also grown dramatically in the city. "In general, we usually have 2,900 applications for building constructions in a year, but this year it suddenly grew to over 4,000 in the past 9 months." At the RETA National Consultation Workshop, several participants confirmed police estimates of 250 persons entering Kathmandu each day from the rural, strife-ridden areas. Few services are available to these migrants and employment opportunities are very limited. These IDPs become a target for organized traffickers who easily recognize their desperation and lack of choices. There are few stakeholders working in Kathmandu to raise awareness of the dangers of trafficking or to find alternative means to meet basic needs.

(d) Social Attitudes and Practices

It is frequently stated that poverty in South Asia is characterized by social exclusion based on gender, ethnicity, and caste. These characteristics of social exclusion are reinforced by tradition and are institutionalized in areas such as politics, education, health, and access to development resources.

(d-i) Gender

Social exclusion based on gender can be seen as a major contributing factor to the risks of being trafficked, as identified above. Gender-based discrimination, as suffered by individual girls and women, is perpetuated and institutionalized in the family and community. Gender stereotypes are used to reinforce women's low status. Women are not encouraged to challenge control by men and are expected to accept their position in life without complaint. These stereotypes also reinforce in young women a sense of helplessness and of being unprotected without a man. All these factors play into the hands of opportunistic traffickers who can more easily control young women and break their spirit.

Rural society in South Asia is especially resistant to educating girls and women. Rural women tend to have more children, be poorer, and, in their struggle to survive, have little or no time and energy to spare on adult literacy programs if they are available. Children of female-headed households in rural areas are often put to work in order to ensure the survival of the family rather than continue in school. In **Nepal** even though over 50% of rural children are enrolled in primary school, only 23% of girls attend secondary school. Education is also considered as a hindrance to marriage prospects for girls in many communities, as an educated woman is viewed as a potential threat to her husband and may upset the status quo within the family.

In **India**, girl children are commonly seen as overwhelming burdens to their families. The unholy alliance between tradition (son complex) and technology (ultrasound) has created havoc in Indian society: some families see it as more desirable to spend a few thousand rupees on pre-natal sex determination tests and sex

Studies show that the practice of female infanticide is widespread in a number of districts in Tamilnadu. Data from primary health care records on female infant deaths due to "social causes" (a euphemism for female infanticide) show that an average 3,000 cases of female infanticide occur every year in Tamilnadu. This amounts to around one sixth to one fifth of all female infant death in the State.

selective abortions, than to spend hundreds of thousands of rupees on dowry later on.

Lack of education condemns girls and women to low-skilled labor, and limits options for alternative income-generating opportunities. Lack of status within the family and community, coupled with little or no education, means that women are generally unaware of their rights or entitlements to protection from the law, even when threatened by traffickers.

Despite official efforts to discourage payment of dowry upon marriage, the practice that requires a girl's parents to make payment of property, goods, or money upon a daughter's marriage remains strong in many areas of South Asia. This practice is part of the complex web of ways that gender disparities are maintained as girls are considered a liability to their families, accentuating the preference for sons who will bring dowry payment into the family.

The impacts of these practices on women are many—the inability to give dowry by the girls' parents has resulted in a number of violent measures against new brides including physical and mental abuse. The demand for dowry can also make it easier for traffickers to persuade parents to hand their daughters over to their control, with the false prospects of "dowryless" marriage.

Some women are moving into decision-making positions in business and government in several South Asian countries. The quotas reserved for women in all levels of political office in **Bangladesh** and **India**, and to a lesser extent in **Nepal**, are leading to more and more women running for openly contested seats. Many efforts are being made through government and NGOs to build the capacity of these elected women to fulfill their mandates more effectively and take on greater leadership, especially concerning the empowerment of other women.

In practice, however, it is taking some time for these elected women to take leadership in their communities to promote women's issues and gender equality. This growing political empowerment of women has come about partly from women's struggle from within their societies, but also due to external pressures and changes on traditional social practices from economic demands. As stated in a recent United Kingdom's Department for International Development (DFID) study⁵⁷ few would have predicted in early 1980s in **Bangladesh** that by the year 2000, 1.7-2 million women, many from rural areas, would be working in the garment and food-

⁵⁷ Lawson-McDowall, J. 2001. *Key Gender Issues in Bangladesh*. DFID.

processing industries. Women's rapid increased participation in the public sphere of the formal sector has brought about significant changes in social structures as well, for these many thousands of women, their families, and their communities.

(d-ii) Ethnicity/Caste

Gender-based discrimination is reinforced through traditional social practices and builds on ethnicity and caste. In **India**, this can be well illustrated by the traditional *Devadasi* practices (illegal in India since 1988) in Karnataka, Andhra Pradesh, and Maharashtra, the *Jogin* in Andhra Pradesh, and the *Bhedias* or *Sansui* in Madhya Pradesh.⁵⁸ Parents from certain scheduled tribes (who are typically poor) marry girls to a deity or a temple. The marriage usually occurs before the girl reaches puberty and requires the girl to provide sexual services for upper-caste community members from the temple. Such girls are known as *jogini*. They are forbidden to enter into a real marriage. A study for the National Commission for Women (NCW) indicated that 62% of women CSWs belong to the scheduled castes, and 30% to scheduled tribe groups. In many instances, traffickers recruit and send *Devadasis* to states or districts where there is less strict enforcement of the caste system.

In western **Nepal** where the trafficking of girls into sexual slavery has a long history, traditional customs like *Deuki*, *Badi*, *Jari*, and *Jhuma* all have become synonymous with prostitution. According to the *Deuki* system, girl children were dedicated to deities. Since these girls were neither educated nor had any resources or skills, prostitution was the only alternative for survival open to them. Where these practices continue, they represent a highly exploited and socially ostracized class.

Some "untouchable" Hindu castes, such as the *Badi* in western **Nepal**, are also designated as sex workers. The *Badi* people originally were a musician caste and have long been entertainers, doing sex work occasionally as a peripheral income source. During the past 50 years, modern media and technology have eliminated the demand for their singing and dancing, and hence these girls and women rely now entirely on CSW as caste exclusion has denied them education or access to other forms of employment. Ironically this opportunity to earn income, even though through sex work, has meant that girl children are valued among the *Badi*—"He's very rich—he has many daughters." Their families also

⁵⁸ Mukerjee, Dr. K.K. 1997. op. cit.

now routinely sell these girls to traffickers for work elsewhere in Nepal or India without consideration of the harm this may cause them.

(e) Vulnerabilities of Children

The overwhelming majority of children vulnerable to trafficking are those belonging to poor families with few or no skills or assets, often working as seasonal laborers or in factories or construction sites. Those most at risk are:

- children separated from their families or with disrupted family backgrounds (e.g., orphans, victims of abuse, unaccompanied children, children from single-parent families, or from families headed by children);
- economically and socially deprived children (unemployed, poor, rural, and those without access to education, vocational training, or a reasonable standard of living);
- children from other marginalized groups (e.g., certain minorities, internally displaced persons); and
- children from the conflict areas themselves.

Some stakeholders also argue that the demand for child labor is increasing. Employers prefer children because they are naïve, uncomplaining, easily controlled, vulnerable, desperate, and dispensable. The children's ages range from 5 to 16 years with 13 years being the average age.⁵⁹ Most of these children find jobs as porters, domestic servants, carpet weavers, transportation helpers, rag pickers, and shoe shiners. Some of these children are trafficked into CSW, some are used for organ transplanting, and some find jobs in the circus. In all of these cases, the traffickers and employers are violating these children's basic rights.

Among street children in urban settings these vulnerabilities intensify other power relationships. For example, from the very beginning of street life, girl children are considered as "fallen", putting them at extreme risk of sexual abuse/assault from other boys and men. Children are also reluctant to leave abusive relationships that nonetheless provide them with some stability. Traffickers play upon this type of dependence and vulnerability in order to maintain control over children.

⁵⁹ Child Workers in Nepal. Available at: www.cwin.org.

“From the very beginning of the street life, the girl children are considered as ‘fallen’. ... For these children, the gender-biased division of labor makes no other job as accessible as prostitution. Thus, there exists a social pressure, generated from male-charged sexist social moral values, which makes [street girls] ... vulnerable to sexual abuse, reduces their choice of profession and thereby make them highly vulnerable to prostitution.”⁶⁰

Table 10: Why Children Leave Home

Reasons for Leaving	No.	Percentage
Economic reasons	18	18.8
Weak economic condition	11	11.5
Little food at home	4	4.2
Hard work at home	3	3.1
Familial reasons	36	37.6
Domestic violence	11	11.5
Beaten by father	9	9.4
Neglect in house	9	9.4
Beaten by stepmother	7	7.3
Peer pressure/demo effect	25	26.1
Hoping good job	15	15.6
Peer pressure	6	6.3
To see the city life	4	4.2
Come with father	11	11.5
Do not know	2	2.1
Total	92	96.1

Source: ILO/IPEC, March 2002. Trafficking and Sexual Abuse Among Street Children in Kathmandu

A recent International Labour Organization (ILO) study on Trafficking and Sexual Abuse Among Street Children in Kathmandu⁶¹ also identifies the complex series of reasons children end up on the streets in the first place, which provides indications for types of programming required to address these reasons.

While domestic violence and familial problems are identified by the majority, peer pressure and hopes for a good life combined with economic reasons are also very significant. These findings confirm the findings of studies in other regions, for example, a similar ILO study undertaken in Thailand-Lao People’s Democratic Republic-Myanmar border areas

⁶⁰ INCIDIN. 1997. *Misplaced Childhood: A Short Study on the Street Child Prostitutes in Dhaka City*. Red Barnet/Danish Save the Children, p. 19.

⁶¹ ILO/IPEC. 2002. *Trafficking and Sexual Abuse Among Street Children in Kathmandu*, Kathmandu.

published in 2001. This study found that the most commonly identified reasons for leaving home were a combination of “an image of a better life in Thailand brought to them by the media and popular accounts that had led to a perception of poverty at home.”⁶²

Many children are moving around alone in the most vulnerable conditions to being trafficked. Even when children arrive with their parent(s), the pressure of urban life on new migrants can overcome their tenuous family ties and these children end up on the street alone. There have been few studies of those children most at risk in **Bangladesh**. Research and Services NGO in Bangladesh (INCIDIN) has carried out two recent studies: one in 1997 for Red Barnet/Danish Save the Children; and, a second in 2001 for ILO and the International Programme for the Elimination of Child Labor (IPEC), Rapid Assessment on Child Trafficking in Children for Exploitative Employment in Bangladesh (the findings of which have yet to be released). The former focused on urban street children, and identified that from the study’s sample, almost 70% of those already involved in commercial sexual exploitation migrated into Dhaka from rural areas, but about 57% of these arrived with either one or both of their parents. It was found that almost all those children interviewed stated they moved in search of jobs, triggered in 40% of the cases by sudden disasters such as loss of land, death of parents, or divorce of parents.⁶³

There are few facilities available that can serve as shelters or temporary homes for street children. There are persistent problems with the quality of care provided in those that exist, especially in long-term homes where many children might end up being institutionalized for years. Alternatives to this kind of care need to be urgently tested and funded, and professional standards for caregivers need to be established. While there are only limited and often substandard facilities available, many trafficked adults and children will prefer the option of remaining in exploitative or abusive living conditions under the control of traffickers, or returning to life on the streets.

Children without birth certificates are especially vulnerable to trafficking. According to UNICEF, a birth certificate not only represents recognition of a child’s existence (and hence his or status under the law) but also ensures access to vaccination, treatment in health centers, and

⁶² ILO. 2001. *Trafficking in Children into the Worst Form of Child Labor: A Rapid Assessment of Thailand-Lao People’s Democratic Republic and Thailand-Myanmar Border Areas*. Geneva.

⁶³ INCIDIN. 1997. op. cit., p. 19.

enrollment in schools. Traffickers find many of their victims in remote villages where poverty is high and registration rates are low, knowing that girls without papers are less likely to run away from their perpetrators.

Trafficking of children could be for sex or cheap labor. Helpless in the stifling environment, young boys end up working 14 hours in sweatshops, in hazardous occupations like tanning leather, or making explosives, firecrackers, carpets, or garments. Repeated, monotonous activity, with little reward or monetary gain, leaves the child spent physically and mentally, and consequently powerless to resist physical or sexual abuse should it happen. Young boys who run away from home in search of a better life, a future in films, or lured by older boys end up on the streets in the cities or are finally “sold” into labor. Others end up as sex workers in popular tourist destinations.

(f) Governance

Governance is the system of government policies and programs necessary to perform a number of vital functions:

- make decisions and coordinate policies;
- establish an enabling environment for private-sector growth;
- deliver certain critical sets of goods and services; and
- promote equity.

The poor are more vulnerable to weak governance and increased risks of being trafficked. Contributing factors in this respect include absence of effective legislation, policies, and institutional structures in addressing human trafficking; poor law enforcement combined with corruption (e.g., police, border officials, politicians being bribed by traffickers); and exclusion of poor and vulnerable groups from basic social and economic services (e.g., women, indigenous peoples/low castes).

Good governance for poverty reduction requires public policies and practices that encourage the inclusion of the poor and other vulnerable groups in the development process. This involves pro-poor public expenditures; social services that are nearer to the users and have more relevance for the poor; and policies that generate equity, access to socioeconomic assets, and enhanced social relations—including gender equity and the improved status of women. To improve governance, it is necessary to empower communities, individuals, and groups so that they can participate in decisions that affect their lives.

Recent efforts at government decentralization of decision making aim to improve planning and delivery of services to the district and village levels, so that communities can ensure that services are more responsive to their needs. Quotas or reserved seats for women elected officials are now in place on decision-making bodies at many levels in all South Asian countries. Extensive efforts are underway to empower these women to respond to the needs of other marginalized women in their communities. However, empowering women to seize these opportunities is a long-term process, and as identified earlier, those women most vulnerable to trafficking are the least likely to participate in social mobilization and remain unable to access services and programs that would build their resistance.

Good governance also ensures the capacity to extend protection from criminal acts such as trafficking. Despite the existence of legislation intended to extend such protection, many of the most vulnerable are not aware of or able to access adequate protection. Few cases of trafficking are registered with the police compared to the number of women and children identified as missing. Cases are not reported for many reasons, several of which can be linked to social and governance problems. Local government officials and decision makers who are not aware of the complexities of offering protection from traffickers do not follow up on cases, or do not understand the leadership roles they could play in ensuring that legislation is more effectively enforced.

Trafficked persons are not aware of their rights and often fear stigmatization by the community. Stories are frequent of trafficked persons suffering more during their detention by police and subsequent humiliation and revictimization by the judicial system. Traffickers play on the fears of their victims who know that reporting perpetrators is dangerous and will only bring more harm. Many community members are also unwilling to provide additional evidence or act against neighbors or other people in their family who may be involved in trafficking, leaving traffickers operating in some areas with complete impunity.

[Saleh's family was] overjoyed when their aunt Jayeda Begum came to visit them from India after 20 years. She wanted Saleh to go back to India for a visit with her and her (Jayeda's) brother-in-law Ead. At first her mother was reluctant but later gave her permission. Saleh was overjoyed to get a chance to have some recreation away from her poverty-stricken family. They took her to Rajisthan and sold her to a man called Nadda Sheikh for Rs. 7,500. Nadda Sheikh was an active member of an international trafficking ring. He failed to sell her, as he could not get a satisfactory price. (Saleh was rescued by local police but had to wait a 1 ½ years to be repatriated with assistance from BNWLA).

Source: BNWLA. 2001. *Movement Against Trafficking and Sexual Exploitation*. October Special Bulletin. p. 19.

Efforts are further hampered by a lack of documentation due to extremely low levels of registration of births and marriages. This is an area requiring increased attention to make monitoring systems more effective.

3.4 Migration

Migration is linked with trafficking in several ways. People may voluntarily choose to migrate but may be deceived about the kind of work they are subsequently expected to do. In this case, what started as migration has become trafficking. Or, a person may willingly migrate for employment but may be trafficked on from the initial employment site (e.g., a carpet or garment factory). The initial process was not trafficking and no crime was committed until the second phase of migration occurred. Hence, while trafficking normally involves migration, migration does not always involve trafficking. This distinction is significant for potential antitrafficking interventions. Given that trafficking may occur either in a person's original home base (often a rural community) or in a subsequent work site (often an urban area), interventions to combat trafficking should cover both locations. Interventions should also recognize that for each individual case, the factors that create the need or desire to migrate and the vulnerability to being exploited by traffickers during migration might be quite different.

Likewise, it is important that antitrafficking interventions consider the direct or indirect impact on a person's right to mobility. Antitrafficking interventions can easily (and sometimes inadvertently) become antimigration interventions. Yet it is difficult to distinguish voluntary migration from trafficking at the departure point since the deception, if present, has not yet become apparent. It is only after arrival at an unexpected and exploitative outcome that the crime of trafficking is apparent.

In the early 1970s after independence, the **Bangladesh** Government did not allow professionals and highly skilled people to migrate to stop a "brain-drain." The embargo was lifted in mid-1970s. But there was no comprehensive policy either to encourage or discourage female migration. In early 1981, through a presidential order, semi-skilled and unskilled female workers were barred from migrating overseas for employment (the measures were justified on the grounds that protecting the dignity of Bangladeshi women abroad was vital). However, they continued to leave the country. In 1988, the Government reviewed the policy and withdrew

the ban, replacing it with a restriction that allowed the Government to consider migration of semi-skilled and unskilled women on a case-by-case basis.

Then in 1997, following wider ministerial consultations, the Government re-imposed a complete ban on women migration except for those who were highly qualified professionals such as doctors, engineers, and teachers. This was the first time that a ban was imposed even on professionals such as nurses, secretarial assistance, and garment/factories workers, along with other categories of semi-skilled and unskilled workers. Many argued this was necessary in the face of several highly publicized cases of abuse suffered by women outside Bangladesh. Conservative elements in politics and Bangladesh society still feel that women should be protected. Facing criticism from the Bangladesh Association of International Recruiting Agencies and civil society, the Government revised the order allowing a few categories of women to work as domestic help if the employer belonged to any of the following three groups:

- Bangladesh embassy staff,
- financially solvent Bangladeshis such as doctors and engineers, and
- foreign passport holders of Bangladeshi origin or descent.

This ban has now been modified under a 1998 Circular to apply only to domestic workers for non-Bangladeshis, but the potential for more restrictive revisions to be reinstated remains.

Although there are no large-scale studies in **Nepal** of women's migration, what analysis is available notes that migrant women tend to belong to very poor households and are forced to leave through loss of livelihood due to natural disaster, forced resettlement from infrastructure developments, or family difficulties. Employment opportunities are generally very limited for these women and they are clearly at high risk of being trafficked as they have limited knowledge of the outside world, poor skills, and are under great pressure to provide additional income to their families or for their own survival. They are often abused and harassed when they find work, are paid low wages, and work in sectors with high health risks.

After several publicized cases of women being abused as domestic workers in the Gulf States, the response from the government was to amend Section 12 of the Foreign Employment Act to prohibit the provision of foreign employment to women and minors without the permission of

the government and their guardians. A Foreign Employment Order issued by the Ministry of Labor further limits the overseas travel of women under 35 years of age, unless they are accompanied by a relative or can show proof of consent from a guardian.⁶⁴ The Passport Order also requires women to show permission letters from their father or husbands, even for travel to India despite the open border agreement of 1950 between the two countries. The Labor Department has a “labor desk” at the Tribhuvan International Airport to check and control “illegal” migration.

These attempts to curb trafficking and protect women in both **Bangladesh** and **Nepal** have instead resulted in limiting women’s right to migrate. This means that if a woman wants to take up foreign employment without seeking permission from a male family member or guardian, she may try illegal means and hence fall into the hands of organized syndicates that not only provide false papers but are seeking women or children to meet the demands from the commercial sex sector or factories.

Both of the major international antitrafficking networks, the Global Alliance Against Trafficking in Women (GAATW) and the Coalition Against Trafficking in Women (CATW), agree that interventions should primarily focus on addressing the abuse of human rights occurring during migration or at the workplace rather than on hindering migration per se. With the traditional subsistence culture no longer a viable means of livelihood, women often migrate for their own survival. It is therefore imperative that a woman’s right to mobility not be impinged upon but rather that the human rights of those who choose to migrate be secured.⁶⁵

Another distinction arises with respect to legal and illegal or irregular migration. Where legal migration across borders is not possible (e.g., because people lack the relevant documents or where the process of obtaining these is inaccessible to the poor and illiterate), people may migrate illegally. If these persons are trafficked and subsequently intercepted by state authorities, the focus is usually upon their status as illegal migrants (and therefore criminals) rather than as trafficked persons, and the crimes committed against them go without redress.

As pointed out by a Nepali NGO, WOREC Centre for Development and Population Activities (CEDPA), “a holistic approach must be taken to focus upon the social, economic and political circumstances that force a woman to migrate instead of targeting her as a criminal and blaming her

⁶⁴ Report prepared by Mr. Ganesh Gurung, Nepal Institute of Development Studies. September 2000.

⁶⁵ WOREC/CEDPA.1999. *Advocacy Against Trafficking in Women—Training Manual*. p. 41.

for the discrimination she faces.”⁶⁶ Furthermore, the right of adults to make decisions about their lives must be respected, including decisions to work under abusive or exploitative conditions, as these conditions might be preferable to other available options. When migrants know the type of difficult and dangerous work they will be required to perform, they still become victims of trafficking if they are held in confinement through coercion and are deprived of their freedom of movement and choice.

Tips for Safe Migration

- Know the address of the embassy or consulate.
- Learn the name, telephone number, and address of the place you are going to and verify that you will be working there.
- Check NGOs, especially those that specialize in women's issues in your own country to find out whether the overseas company that is hiring you is valid and legitimate.
- Do not sign a contract right away. Read through the document, ask for legal advice if it is difficult to understand.
- Watch out for the language where the employer says he will hold all money in trust until your contract is completed.
- Be suspicious if your prospective employer obtains a tourist visa for you.
- Do not give your passport to anyone for safekeeping. Keep a copy of your passport pages in a safe place that no one else has access to.
- Learn the local language if you do not know it ... at least basic phrases.
- Verify the visa validity with your embassy /consulate.
- Do not send any money through *hundi* (money laundering).
- Know about the rights of migrant workers.
- Obtain mandatory predeparture training.

Source: *Migration Information Kit*, WOREC and INHURED leaflet (both in press).

In situations where labor conditions are no worse than those expected by the worker and the worker is not deprived of her or his freedom of movement or choice, the abuser or exploiter remains criminally liable for other crimes (such as assault and labor abuses) and for other administrative and civil offenses. The existence of consent to work under such conditions does not excuse the abuser or exploiter from being subjected to the full force of domestic laws that prohibit such practices. But these circumstances do not include all the characteristics of trafficking.

⁶⁶ Ibid.

3.5 Demand

The demand for trafficked labor comes from a wide range of sectors, including **commercial sex work**, where trafficked persons are required to provide sexual services in their own country, but some distance from their homes, or are transported to India or other destinations such as Pakistan, the Gulf States, etc. There is also a demand for CSWs in South Asia in sites other than brothels or dance bars, such as along highways, in small communities, and in temporary construction worker camps.

There is a growing demand for **trafficked labor in factories** where trafficked persons become debt-bonded to factory owners or coerced into work under slave-like conditions. Asia has become a center for low-cost, labor-intensive, manufacturing operations. Competition between countries in South Asia has driven down the cost of labor even further, encouraging some employers to use illegal practices such as bonded labor to access cheaper and cheaper labor sources.

There are anecdotal accounts of trafficked child labor used as **domestic workers**, but this sector is poorly understood as a locus of child and trafficked labor abuses. There is resistance in many Asian countries to address the issue, as middle-class professionals are strongly implicated in hiring child labor in their homes, whether trafficked or not. Children are also trafficked into the control of begging syndicates, camel jockeying in the Gulf States, and other sectors of entertainment (such as circuses in India).

Addressing these demand factors are as important as the measures to address push or supply-side factors. According to many reports (e.g., United States Agency for International Development [USAID], ILO) **India** has the largest number of child laborers in the world. Government of India estimates range from 17.5 million to 11 million,⁶⁷ many of whom are highly vulnerable to being trafficked. Furthermore, persistent acceptance of the use of child labor in some sectors of work creates demand for trafficked children. Many studies have identified that high proportions of children involved in the worst forms of child labor (as defined by ILO Convention on the Worst Forms of Child Labor No. 182) have been trafficked. It should not be assumed, however, that all these children are working under conditions of forced labor or are trafficked, and the Indian Government is actively seeking to eliminate all forms of exploitation of children.

⁶⁷ USAID India website <http://www.usaid.gov/in/specialfeatures/womensday.htm> for International Women's Day, 2002.

The working and living conditions of migrant construction workers (especially females and their children) are very poor with a highly hierarchical and exploitative organization of the industry that limits enforcement of basic labor laws. The mason-helper relationship is a point of coercion in the experience of several NGOs working with these migrants, and illustrates the extra sexual favors demanded of female workers and frequent debt-bondage organized through traffickers and labor brokers. Stipulation of minimum wage payment by contractors, crèche/other benefits, secure shelter, and medical facilities should be part of policies for construction tenders while building highways.

Source: RETA interview with Jananeethi, Kerala, India.

There has been some effort made to improve labor standards in **Nepal**, which are most successful when involving private-sector partnerships and increased corporate responsibility. The demand for CSWs can also be tackled, for example through links with HIV/AIDS programming and awareness-raising among contractors and in construction camps in infrastructure projects.

During the RETA's National Consultation, WOREC recounted that in a region where a cement factory was being built, their enquiries uncovered that the CSWs operating inside the camp were all women who clearly chose to remain in this sector. However, some distance from the construction site, at least one VDC distant, traffickers had set up operations coercing adolescents and young women into providing sexual services for construction workers, but at sufficient distance from the camp so as to avoid detection. This implies that any efforts undertaken to address demand conditions, such as those presented by temporary construction camps, need to be carefully monitored and impacts assessed beyond the immediate confines of the camp.

There is remarkably little research on the demand conditions for trafficked labor. As governments and international agencies are starting to pay more attention to illegal and irregular migration patterns, the demand conditions that create profits for human smugglers and traffickers should be examined and understood more carefully. There is potential for ADB to play a role in these efforts, as labor-market conditions form a key area in poverty analysis and policy dialogue at regional and country levels.

Increased awareness among local-level governance structures can also play a role in shaming those using trafficked labor into changing their practices. Governance projects could take up these issues as areas where rule of law and respect for labor practices has the potential for longer-term outcomes of reducing the demand for trafficked labor. Another

Demand Conditions for Commercial Sex Workers Along India's Highways

A major demand for commercial sex workers is from those who work (35 lakh⁶⁸ truckers work for private/public companies) and travel along highways. Road traffic has increased over recent years in India, and now accounts for 55% of freight and 80% of passenger traffic, whereas rail traffic has decreased to about 40% of freight and 20% of passenger traffic.⁶⁹

This has resulted in a range of impacts for those living and doing business along the highways. It can be presumed that as the demand for CSWs increases, traffickers and organized crime syndicates will bring children and young women to meet this demand. In Mandla District of Madhya Pradesh, for example, several scheduled-tribe villages are located on the Mandla-Raipur national highway, which are centers for organized trafficking of adolescent girls. There are also grave concerns about the links between highway routes, mobile populations, and the spread of HIV/AIDS.

Recent work carried out in Maharashtra with HIV/AIDS prevention organizations has demonstrated that it is possible to curb the demand for CSWs by changing the high-risk behavior of truck drivers using multiple sex partners while away from home. The State government has enhanced working conditions for the 50,000 truck drivers by regulating the maximum number of hours spent on the road and limiting days away from home. The results have included improved safety on the highways as well as lowered demand for CSWs.

The highways are also the intersections where female migrants arrive (in interstate bus stations) and where protection from harassment and shelter is minimal. Depending on whether they arrive with families or singly, the process of luring and coercion often begins here by gangs of contractors/ brokers working with traffickers.

Sources: RETA team interviews and documentation from STHREE and Prerna.

option is to work in partnership with the private sector (as encouraged in ILO projects) to strengthen corporate responsibility for implementing core labor standards.

For example, a micro study is currently being conducted by Jaggory on the use of trafficked labor in sectors such as the fish-processing industry in Gujarat in **India**. Most trafficked labor is concentrated in sectors rarely subject to monitoring of core labor standards, and it is advocated by many stakeholders that if existing labor standards were implemented more effectively the demand for trafficked labor would be reduced. There has been some effort made to improve labor standards in **India**. The most effective in other countries have been based on partnerships between government and the private sector to increase corporate responsibility for respecting workers' rights. Care should be taken by advocates of

⁶⁸ Lakh is equivalent to 100,000.

⁶⁹ ADB. 2001. *India: Country Operational Strategy*.

strengthening core labor standards from outside India, as there is suspicion from many government and private-sector stakeholders that these mechanisms will be used to restrict trade.

Most of the limited research on the demand for trafficked labor in **India** has been carried out in the commercial sex sector. The demand for trafficked commercial sex workers is evident across the country in hotels, brothels, lodges, cinema halls, parks, and along major roads and highways. Many types of clients demand services from commercial sex workers: politicians, students, bachelor employees, pensioners, migrant populations, officers, businessmen, tourists, coolies, vehicle operators (auto, taxi, truck, and bus drivers and cleaners), uniformed forces, caretakers, street children, and drug users.

3.6 Impacts of Trafficking

The impact of trafficking is another area where little or no research or data collection has been undertaken. The following are general areas suggested for further investigation:

3.6.1 Social Impacts

Trafficking, as manifested in South Asia, exploits and perpetuates patriarchal attitudes and behavior that in turn undermine efforts to promote gender equality and eradicate discrimination against women and girls. The continued tolerance for human rights abuses against women and children in their own families and communities also hinders efforts to address these concerns and to promote the rule of law.

There are conflicting aspects, however, to the social impacts of trafficking, since for many women trafficking episodes, while causing harm, also provide opportunities to remove themselves from otherwise oppressive circumstances. As stated in Blanchet's recent study for USAID,⁷⁰ women who have returned remained silent about their experiences, especially concerning CSW, and brought home with them not only some savings, but also more experience of the world. Some of these women have managed to turn these experiences into personal empowerment within their communities. These cases can be termed "self-integrating" trafficked persons without assistance from NGO or

⁷⁰ Blanchet. 2002. *op cit*.

government programs. In many other cases, however, the return home has proved too restrictive and they return once more to a migrant life. These experiences again point out how safe (or less harmful) migration experiences can be empowering for women, calling for more understanding of how trafficking can be curbed while the positive elements of migration are enhanced.

3.6.2 Economic Impacts

Economic losses to communities and governments are enormous if considered in terms of lost returns on human or social-capital investments. The cost of countering criminal trafficking activities puts additional strain on already limited government resources for law enforcement. Vast amounts of potential income from trafficked labor is lost in “hidden” sectors such as CSW or is expropriated by criminal traffickers and diverted out of the formal economy. There are many sectors of the Asian and Middle Eastern economies that rely upon low-cost and often trafficked migrant labor, but—if reasonable returns could be made on this labor by the migrants themselves and mechanisms put in place that facilitate remittance and reinvestment of such savings to improve livelihoods in a sustainable manner—poverty conditions could be alleviated and the vulnerability to trafficking (as an outcome from risky migration) could be reduced. As sending, transit, and receiving countries seek to stem trafficking and human smuggling activities, the economic benefits of safe migration should not be ignored.

3.6.3 Health Impacts and HIV/AIDS

Trafficked persons have often faced extreme psychological stress that in turn leads to trauma, depression and, in some cases, suicide. A trafficked woman or child may have been exposed to isolation, fear, sexual abuse, rape, and other forms of physical and mental violence. Emotional stress is usually compounded by constant fear of arrest and public stigmatization, making the thought of returning home fearful. These harms are both short term and long term. Mental health experts understand more about the enormous impact of posttraumatic stress over many years that might influence the capacity of a woman to care for her family or negotiate through future emotional challenges once the original harm has stopped.

Women and children located in the commercial sex sector, either trafficked or otherwise, face higher risk of contracting sexually transmitted

diseases (STDs), HIV/AIDS, tuberculosis, and other diseases. Mobile populations in general face greater risks of contracting STDs as their family and community lives are disrupted. Many of the children most at risk of being trafficked, particularly urban street children, are also considered to be high-risk groups for contracting HIV/AIDS through drug use, sexual contacts, and other behaviors. Stakeholders seeking to combat trafficking and to address HIV/AIDS are therefore working with similar risk groups and there are many examples of combined programming or collaborative approaches (e.g., UNDP HIV and Development Program for South and Southwest Asia) that have ensured women and girls are empowered to protect themselves from HIV infection and resist (or leave) trafficking experiences.

Increased incidence of HIV/AIDS is also believed to have led to an increasing demand for younger commercial sex workers, who have higher probability of being free of disease. There remains strong resistance among many men to recognize they are HIV carriers. There have also been reports of myths circulating that having sex with a virgin will actually cure STDs. Tragically these false notions are creating a market demand for younger girls even below 12 years of age. There are many highly innovative programs already in place in South Asia seeking to change high-risk behavior, particularly among mobile male populations, that can curb demand for some of the most exploited commercial sex workers.

However, links between trafficking and HIV/AIDS have to be explored with caution. Many trafficking awareness-raising campaigns have inadvertently conveyed the message to fearful communities that all trafficked persons are infected with the disease, leading to further stigmatization of all women returning to their communities.⁷¹ There is also often tension between the public health objectives of HIV/AIDS programming and attempts to combat trafficking. In some cases, the delivery of public health messages concerning HIV/AIDS risks among CSWs has been carried out by co-opting the support of pimps or brothel owners, who are also abusing and exploiting child labor. Forced testing of returning migrants as a public health measure has also considerably increased stigmatization as women have been humiliated by the procedures and attitudes of health officials.

⁷¹ WOREC in Nepal provided an example of this occurring in Nepal from their own early programming to combat health concerns among migrant women at the RETA Regional Workshop, 27-29 May 2002.

CHAPTER 4

LEGAL FRAMEWORKS

In the context of the RETA, a study was conducted to: (i) review existing legislation, regulations, and policies in Bangladesh, India, and Nepal for the protection of persons against trafficking, and the rescue, repatriation, and support of trafficked persons; (ii) to identify aspects of the legal frameworks that could be improved to better protect persons against trafficking, and to rescue, repatriate, and support trafficked persons; (iii) identify areas for possible capacity building of key stakeholders in Bangladesh, India, and Nepal to better implement and enforce the relevant laws; and (iv) consider the comparative experience of countries in the Greater Mekong Subregion (GMS) and elsewhere in combating human trafficking, and identify approaches that could be relevant to countries of South Asia.

4.1 Conceptual and Legal Frameworks

The complex nature of human trafficking is mirrored by a similarly complex web of laws and policies operating at international, regional, subregional, national, and subnational levels. These legal frameworks generally reflect one or more of the following conceptual approaches to trafficking, as

- (i) a moral issue,
- (ii) a law-and-order or organized-crime issue,
- (iii) a human rights issue,
- (iv) a migration issue,
- (v) a labor issue,
- (vi) a poverty and development issue,
- (vii) a gender issue, and/or
- (viii) a public health issue.⁷²

⁷² This list draws on the analysis in Wijers, Marjan, Lin and Lap-Chew. 1997. *Trafficking in Women: Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution*.

The legal frameworks that typically come to mind in the context of human trafficking are criminal laws against “trafficking” (however defined), or against related criminal activities such as kidnapping, wrongful confinement, slavery or forced labor, and rape or sexual assault. Antitrafficking laws have been associated historically with efforts to combat prostitution, and therefore many antitrafficking laws focus primarily or exclusively on trafficking for prostitution. However, there is a trend in recent antitrafficking legislation to recognize that human trafficking may be for a variety of purposes, also including forced labor, forced marriage, sale of organs, and other abusive or exploitative conditions and activities. Recent antitrafficking laws may also focus more on the deceptive or coercive aspect of trafficking and on the involvement of organized criminal elements. The different conceptual approaches to trafficking also highlight the relevance of a number of other legal frameworks, including (i) human rights laws; (ii) migration laws, regulations, and policies; (iii) labor rights and standards; and (iv) frameworks for economic development and integration. Other relevant laws may include those pertaining to extradition, birth and marriage registration, and prohibitions on child marriage, dowry, and other harmful social and cultural practices.

4.2 Crosscutting Issues

The following five areas require special attention when analyzing legal frameworks of human trafficking:

- **Links and distinctions between trafficking and prostitution; differences in legal treatment of prostitution.** As reflected in the *UN Trafficking Protocol*, a person may be trafficked into a variety of harmful circumstances, including forced prostitution, bonded labor, or slavery-like working conditions. However, the antitrafficking laws in **Bangladesh** and **India**, as well as the new *SAARC Trafficking Convention*, focus primarily or exclusively on trafficking for prostitution. As noted earlier, antitrafficking treaties and laws may or may not require a separate element of coercion, deception, or abuse of power. Where antitrafficking laws focus primarily on prostitution, and do not require a separate showing of coercion, deception, or other abuse, women engaged in commercial sex work may be presumed to have been trafficked, and may be subject to “rescue” and repatriation to their home

countries, regardless of their wishes. At the same time, an antitrafficking law's focus on prostitution may result in all trafficked women being stigmatized as prostitutes. Ironically, this focus on prostitution can obscure the fact that trafficked women and girls frequently are subject to sexual abuse by traffickers, regardless of whether they are trafficked into prostitution. Because they are viewed as "fallen women," trafficked women may also be sexually abused by law enforcement officers, even after they have been "rescued" and placed in "safe custody."

The linkages made between trafficking and prostitution are complicated by countries' different legal treatments of prostitution. The UN Special Rapporteur on Violence Against Women has identified several possible legal approaches to prostitution, including (i) criminalization, which may include either prohibition or toleration, and may criminalize all or only some actors; (ii) decriminalization, which may or may not include legal protections of sex workers; (iii) and legalization/regulation, which may include zoning, licensing, and mandatory health checks.⁷³ Commitments to protect the human rights of women and girls trafficked into prostitution are more difficult to fulfill when they are treated as criminals under antiprostitution laws. They are also less likely to seek help from police and other public authorities for fear of being arrested for prostitution.

- **Distinction between women and children; different laws on age of majority.** While international law and national legal frameworks recognize the different legal status of women and children, with different rights and capacities, there is a tendency in many antitrafficking laws to group women and children together. If distinctions are not carefully drawn between the two groups, these laws may have a disempowering effect on women, for example, by not recognizing their capacity and right to make decisions concerning their safety, health, work, and location. Women and children also have different needs in terms of counseling, witness protection, legal assistance, and participation in criminal investigations and trials, which may be ignored if they not treated separately within anti-trafficking laws.

The treatment of children under antitrafficking laws is also complicated by the existence of multiple laws of majority in many

⁷³ Coomaraswamy, Radhika, 2000. op. cit., p. 11.

countries. For example, both the new *UN Trafficking Protocol* and *SAARC Trafficking Convention* define “child” as any person under 18 years. However, the age of majority for various purposes under the laws of **Bangladesh**, **India**, and **Nepal** vary from 7 years (the lowest age of criminal responsibility in Bangladesh)⁷⁴ to 21 years (the upper age for guardianship in Bangladesh).⁷⁵ Labor laws may also set different minimum ages for different types of work. In addition, despite minimum ages for marriage established by statute, religious laws and community norms permit or encourage child marriage, particularly for girls. For example, Muslim personal law in **Bangladesh** allows a child to be given in marriage at puberty, and Hindu personal law in Bangladesh allows child marriage without the child bride having the right to repudiate the marriage at any age.⁷⁶ These variations can lead to a number of anomalous results in relation to trafficking, particularly trafficking of adolescents. For example, a 16-year-old could be trafficked into illegal activities (such as drug smuggling). The adolescent might be held criminally responsible and prosecuted for drug smuggling under a country’s penal laws, although the child would not have been considered capable of consenting to participate in these activities under the *UN Trafficking Protocol*.

- **Law enforcement issues.** The effectiveness of antitrafficking laws can be influenced by a number of factors. They include the resources dedicated to enforcement and prosecution of the laws; the training of law enforcement and court personnel on the scope and intent of the laws; community awareness and willingness to report trafficking cases; police powers to investigate trafficking cases; ability and willingness of law enforcement and court personnel to protect trafficked persons during the investigation and prosecution of the traffickers; gender-sensitive and child-sensitive court facilities and procedures; and the insulation of police investigators, prosecutors, and judges from political influence and corruption. There is also evidence from **Bangladesh**

⁷⁴ Under Bangladesh’s criminal laws, the minimum age of full criminal responsibility is 12 years, but there is a presumption of capacity to infringe certain criminal laws at 7-11 years (depending on the offense).

⁷⁵ These variations are recognized in the *Convention on the Rights of the Child*, which defines a child as “below the age of 18 years unless, under the law applicable to the child, majority is attained earlier” (Article 1). The Convention also recognizes the need to consider “the evolving capacities of the child” in relation to the child’s exercise of rights thereunder (Article 5).

⁷⁶ Hussain, Hameeda, ed. 2001. *Human Rights in Bangladesh 2000*. Dhaka: Ain o Salish Kendro (ASK).

that, while stiff criminal penalties for traffickers may demonstrate a government's resolve to combat trafficking, extremely harsh sanctions such as the death penalty actually discourage prosecutions and convictions of traffickers.

- **Links to labor standards.** The abusive conditions in which trafficked persons typically are forced to work implicitly violate both human rights laws and a range of labor laws and standards. However, women and children often fall prey to traffickers because they are trying to escape a working environment—such as a sweatshop where they are not fairly paid or are sexually abused by supervisors—in which labor laws are routinely violated. Moreover, most of these women and children are working in the informal sector, which is beyond the reach of most labor laws and regulations. Migrant workers are particularly vulnerable to trafficking and other abuses, especially if they are undocumented, since they are unlikely to complain about their working conditions for fear of being arrested and deported.
- **Different national priorities and governance structures.** National policies and legal frameworks to combat trafficking can vary substantially, depending on national perceptions of the nature of the problem and other national priorities. For example, although all three countries included in this study are experiencing both internal and crossborder trafficking, their approaches are influenced by their self-perceptions as “source,” “transit,” and/or “destination” countries. Thus, both **Bangladesh** and **Nepal** focus heavily on the trafficking of young women and girls to brothels in India, while India is more concerned with internal trafficking. Moreover, because of its federal system, India also must deal with differences in approaches among its various states.

4.3 International Commitments

Bangladesh, India, and Nepal have signed or ratified/acceded to a number of treaties relevant to human trafficking, including:

4.3.1 Antitrafficking and Antislavery Treaties

As discussed above, the *1949 Trafficking Convention* is the main international instrument relevant to human trafficking, and consolidates

four prior treaties dating back to the turn of the century. Both **Bangladesh** and **India** are parties to the Convention, while **Nepal** is not. The Convention reflects a historical concern with the trade in women for prostitution, and focuses on punishing procurers, exploiters, and brothel owners. Although the Convention includes commitments by state parties to provide for the “rehabilitation and social adjustment of the victims of prostitution” (Article 16), the Convention also allows for the forcible expulsion of aliens who are prostitutes (Article 19). The Convention does not prohibit prostitution directly, but requires punishment of third parties involved in prostitution; at the same time, it does not preclude a state party from prosecuting sex workers as well as third parties.⁷⁷ The Convention is considered to have been relatively ineffectual, since it lacks a formal monitoring mechanism.

The *UN Trafficking Protocol*, adopted by the UN General Assembly in November 2000, includes a more expansive definition of trafficking in persons, which also covers trafficking into forced labor, forced marriage, and slavery-like conditions. This definition is generally consistent with the definitions now used by UN agencies and the UN Special Rapporteur on Violence Against Women.⁷⁸ To date, over 100 states have signed and eight have ratified the protocol (which will enter into force 90 days after the 40th ratification, accession, or acceptance). None of the three countries included in this study has yet signed the protocol. While the protocol, as a supplement to the *UN Convention Against Transnational Organized Crime*, places strong emphasis on crime control, it also includes a number of measures to support trafficked persons, which may include housing, counseling, medical and psychological assistance, and training and employment opportunities (Article 6.3). At the same time, the protocol has been criticized for not adequately distinguishing between women and children, and for not including more mandatory provisions on assistance to trafficked persons.⁷⁹

4.3.2 Human Rights Treaties

Bangladesh, India, and Nepal have also ratified or acceded to a number of human rights treaties that explicitly or implicitly address

⁷⁷ Coomaraswamy, Radhika, 2000. op. cit.

⁷⁸ Sanghera, Jyoti. 2001. *Towards the Construction of an Empowered Subject: A Human Rights Analysis of Anti Trafficking Legal Interventions and Trends in South Asia*. Paper presented at the Technical Consultative Meeting on Anti-Trafficking Programs in South Asia.

⁷⁹ Ibid.

trafficking in persons. The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW)⁸⁰ requires state parties to “suppress all forms of traffic in women and exploitation of prostitution of women” (Article 6). The *Convention on the Rights of the Child* (CRC)⁸¹ contains a number of relevant provisions pertaining to the illicit transfer of children abroad (Article 11), protection against abuse, maltreatment and exploitation by parents or other caretakers (Article 19), protection in the case of intercountry adoptions (Article 21), protection against sexual abuse and exploitation (Article 34), prevention of abduction, sale or traffic of children (Article 35), and prohibition of torture and other cruel or inhuman treatment (Article 37). The CRC has recently been supplemented by an *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*,⁸² which **Bangladesh** has ratified and **Nepal** has signed. The CRC sets standards for treatment of offenders, protection of victims and prevention efforts, and provides for increased international cooperation in all these areas.

The UN Office of the High Commissioner for Human Rights is currently finalizing Recommended Principles and Guidelines on Human Rights and Human Trafficking, for release later this year. These principles and guidelines will be an extremely valuable resource for government officials and civil society organizations working to ensure that human rights principles are incorporated in antitrafficking laws, policies, and programs.

4.3.3 Labor Conventions

Bangladesh, India, and Nepal are also parties to a number of ILO conventions relevant to trafficking in persons, especially women and children. One or more of them have ratified the *Forced Labour Convention, 1930* (No. 29), the *Abolition of Forced Labour Convention, 1957* (No. 105), the *Minimum Age Convention, 1973* (No. 138), and the *Worst Forms of Child Labour Convention, 1999* (No. 182). The *Discrimination (Employment and Occupation) Convention, 1958* (No. 111) and the *Equal Remuneration Convention, 1951* (No. 100) are also relevant, since young women in South Asia frequently respond to the enticing job offers of traffickers because they are earning much less than

⁸⁰ Entered into force on 3 September 1981, 1249 U.N.T.S. 13.

⁸¹ Entered into force on 2 September 1990, 1577 U.N.T.S. 3.

⁸² Entered into force on 18 January 2002, UN Doc. A/RES/54/263.

men and may also be subject to harassment and sexual abuse in local workplaces.⁸³ ILO conventions relating to migrant workers, such as the *Migration for Employment Convention (Revised)*, 1949 (No. 97) and the *Migrant Workers (Supplementary Provisions) Convention*, 1975 (No. 143), are also potentially relevant, but none of them has been ratified thus far by Bangladesh, India, or Nepal. The countries also have not yet ratified the *Part-time Work Convention*, 1994 (No. 175) or the *Home Work Convention*, 1996 (No. 177), which extend labor protections to part-time and home-based workers, many or most of whom are women.

4.3.4 Other International Commitments

Bangladesh, India, and Nepal have also participated in a number of international conferences that have adopted declarations and plans of action relevant to human trafficking. Although not binding obligations under international law, these declarations and plans of action reflect the consensus of the participating countries, and create an expectation that the countries will take steps to implement the commitments set out in these documents. For example, the Vienna Programme of Action adopted by the World Conference on Human Rights in 1993 treated trafficking as a form of gender-based violence. The Cairo Programme of Action adopted by the International Conference on Population and Development in 1994 called on governments to prevent international trafficking in migrants, especially for prostitution; the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development in 1995 also called on countries to take effective measures against traffickers of undocumented migrants and to safeguard migrant workers and their families. The Beijing Platform of Action adopted at the Fourth World Conference on Women in 1995 included a number of measures calling on governments to address the root factors contributing to the trafficking of women and girls; to strengthen existing laws to better protect women's rights; to punish traffickers through both criminal and civil laws; to accelerate cooperation among law enforcement authorities to break up

⁸³ The conventions are available at <http://www.ilo.org/public/english/standards/norm/whatare/fundam/index.htm>. Since all of the conventions mentioned above are "core" conventions under ILO's *Declaration on Fundamental Principles and Rights at Work*, Bangladesh, India, and Nepal are bound to uphold them as ILO members, even if they have not formally ratified them. The text of the *Declaration on Fundamental Principles and Rights at Work* is available at <http://www.ilo.org/public/english/standards/decl/declaration/text/index.htm>.

trafficking networks; and to allocate resources to heal and rehabilitate trafficked persons back into society.⁸⁴

4.3.5 Findings

The commitments of Bangladesh, India, and Nepal to address the problem of human trafficking, especially of women and girls, would be further strengthened by their ratification of the new *UN Convention Against Transnational Organized Crime* and the Trafficking Protocol that supplements it. In addition, their ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* would establish common standards for the humane treatment of migrant workers in their countries, which could reduce the vulnerability of many of these workers to trafficking. A common challenge for all of the countries is to implement their international commitments to combat trafficking in a realistic and meaningful way. As discussed in later sections, all three countries are taking concrete steps in this regard through various national action plans, which call for actions in the areas of law reform, law enforcement, training, capacity building, awareness raising, and other initiatives. Several international agencies, including ILO, IOM, UNDP, UNICEF, and UNIFEM, and bilateral agencies such as the Canadian International Development Agency (CIDA), the United Kingdom's DFID, the Norwegian Agency for Development Cooperation (NORAD), and USAID, are already supporting a number of these initiatives.

4.4 Regional and Subregional Initiatives

A number of initiatives are under way in South Asia to combat human trafficking, including regional and subregional plans of actions, the new *SAARC Trafficking Convention*, and proposals for bilateral arrangements between **Bangladesh** and **India** and between **Nepal** and **India**. Initiatives in the GMS, such as the negotiation of bilateral memoranda of understanding (MOUs) between Thailand and its neighbors, and reform

⁸⁴ Skinnider, Eileen. 1997. Illegal Labour Movements and the Trafficking of Women: International Dimensions in the Era of Globalization, in *Proceedings of the 1997 Regional Conference on Trafficking in Women and Children*, Bangkok, Thailand.

of Thailand's criminal laws to conform to the new *UN Trafficking Protocol* and related instruments, also provide useful models for future activities in South Asia.

4.4.1 Plans of Action

The *Bangkok Accord and Plan of Action to Combat Trafficking in Women*, which was adopted at a regional conference convened by the UN Economic and Social Commission for Asia and the Pacific (ESCAP) in November 1998, represents a comprehensive effort by several countries in the region to address trafficking at national, subregional, regional, and international levels. Its recommendations for national-level action include a number of concrete activities in the areas of prevention, protection, and humanitarian treatment of trafficked persons; sanctions against traffickers; medical and psychological intervention; repatriation and reintegration; information/monitoring mechanisms; and participation. The Plan's recommendations for subregional and regional action include creation of subregional and bilateral treaties to outline procedures to take against trafficking; establishment of a regional task force, and regional and subregional focal points in trafficking; establishment of centers for trafficked persons; and consideration of establishing new regional mechanisms to implement the plan and regional funds to assist trafficked persons in any repatriation or reintegration. As one follow-up, ESCAP has convened regional and subregional seminars on using legal instruments to combat trafficking, and is preparing a related resource guide.⁸⁵

Close to 20 Asian countries, including Bangladesh, also participated in an international symposium on migration in April 1999, which resulted in the adoption of the *Bangkok Declaration on Irregular Migration*. Recognizing the various factors contributing to an increase in irregular migration within and out of the region, and the increasing activity of organized criminal elements in both smuggling and trafficking in human beings, the Declaration calls for countries in the region to pass legislation to criminalize smuggling and trafficking in human beings, to cooperate in prosecuting offenders, to provide humanitarian treatment to irregular migrants, to designate national focal points for cooperation on migration issues, and to conduct a feasibility study on a possible regional migration arrangement.

⁸⁵ ESCAP. 2002. *Draft Resource Guide on Using Legal Instruments to Combat Trafficking Women and Children*. Bangkok: ESCAP.

As noted earlier, South Asian governments also endorsed a *South Asia Strategy against Commercial Sexual Exploitation of Children and Child Sexual Abuse*, in preparation for the Second World Conference Against Commercial Sexual Exploitation of Children held in Yokohama in December 2001. This strategy includes the development of national plans of action; the enactment and effective implementation of laws to combat commercial sexual exploitation and sexual abuse of children; the establishment of regional and national focal points and databases; consultations with a wide range of national, regional, and international stakeholders; and advocacy to improve national birth registrations. Specific areas for legal reform under the strategy include establishing legal procedures that are rights-based, gender-sensitive, and child-friendly; ensuring registration of all births and marriages; cooperation with other governments to prosecute foreign perpetrators; and child-rights training for judges, lawyers, police, and other law enforcement officials.⁸⁶

4.4.2 SAARC Conventions and Other Initiatives

In January 2002, representatives of the seven member states of SAARC signed two conventions, a *Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia* and a *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*. The first convention essentially reinforces the SAARC member states' commitments under the international CRC, discussed earlier in this report. The second convention (the *SAARC Trafficking Convention*) represents a significant development—the first subregional treaty addressing trafficking in persons. Each convention will come into effect 15 days after ratification by all seven member states.

The *SAARC Trafficking Convention* had been under development since 1997, and was the subject of vigorous debate by women's and human rights groups in the SAARC countries. While still in draft form, the convention also attracted the notice of the UN Special Rapporteur on Violence Against Women, who raised several concerns. In particular, she cautioned that the convention should recognize the conceptual distinctions between trafficking and prostitution, and trafficking and migration, and the different status of women and children.⁸⁷ Similar

⁸⁶ United Nations Children's Fund (UNICEF). 2001. *Commercial Sexual Exploitation and Sexual Abuse of Children in South Asia*. Kathmandu: UNICEF Regional Office for South Asia.

⁸⁷ Coomaraswamy, Radhika. 2001. op. cit.

comments were expressed by participants in the SAARC People's Forum, a coalition of South Asian NGOs, who recommended (i) broadening the convention's definition of trafficking to include a variety of exploitative purposes, not only prostitution, (ii) ensuring that the convention would not be used to restrict women's right of mobility, and (iii) adding provisions to acknowledge the right of trafficked women to choose the manner of their reintegration, to ensure that no trafficked women would be repatriated against their will, and to provide for the security and maintenance of trafficked persons pending their reintegration.⁸⁸ Other concerns expressed were that the draft convention did not adequately address the problem of trafficking from South Asia to other regions, that the regional task force to be set up under the convention should include nongovernment experts on trafficking, and that the provisions on extradition should be more stringent and time-bound.⁸⁹

On its face, the *SAARC Trafficking Convention* does not appear to have been substantially changed from earlier drafts in response to comments from the UN Special Rapporteur on Violence Against Women or civil society groups. As discussed early in this report, the convention limits the definition of trafficking to "the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking" (Article I.3). Because consent is irrelevant for purposes of the definition, a woman who travels voluntarily to engage in commercial sex work could be deemed to have been trafficked by any third party who assists her. The convention requires state parties to make suitable arrangements for the care and maintenance of trafficked persons, including the provision of legal advice and health care facilities, pending the completion of arrangements for their repatriation in the case of cross-border trafficking (Article X.2). However, the provisions on repatriation do not contemplate any input or choice on the part of the trafficked person. In these and other respects, the convention provides essentially the same treatment to women and children. Moreover, the presumption that trafficked persons will be repatriated to their country of origin (Article IX.1) raises practical issues for women who have migrated from Nepal and Bangladesh to India, but who do not wish to return to their home

⁸⁸ Memorandum to the Honourable Members of the Standing Committee of the 10th SAARC Summit from the Participants of the SAARC People's Forum: Combating Trafficking in Women and Children and Ensuring Food Security, Colombo, 25-26 July 1998. Available: <http://www.hsph.harvard.edu/Organizations/healthnet/SAsia/repro2/SAARC.htm>.

⁸⁹ Neergaurav Research and Development Foundation, 1999. *The Government Draft of SAARC Convention Against Trafficking: Critiqued and Alternative Draft Proposed*.

country, for example, because of fear of rejection or abuse by family members or others. The situation is especially problematic for women who have migrated from Nepal, because they would otherwise be entitled to remain in India under the terms of the *Treaty of Peace and Friendship between the Government of India and the Government of Nepal, 1950*.⁹⁰

In other respects, the *SAARC Trafficking Convention* represents a significant step forward in promoting sub-regional cooperation to address trafficking. The convention includes specifications of criminal offenses for trafficking; provides for mutual legal assistance in conducting investigations, trials, and other proceedings; specifies that trafficking offenses will be extraditable within the terms of any extradition treaty between state parties; and requires judicial authorities to maintain the confidentiality of trafficked persons and provide them with appropriate counseling and legal assistance. With regard to prevention and interception of trafficking, the convention requires state parties to sensitize their judiciaries and law enforcement agencies about trafficking, to exchange information on a regular basis, to promote awareness of the trafficking problem through the media and other means, and to focus “preventive and development efforts” in the areas known to be source areas for trafficking (Article VIII.7). The convention provides for establishment of a regional task force to implement its provisions and conduct periodic reviews. This task force may also make recommendation for establishing a voluntary fund to support rehabilitation and reintegration of trafficked persons.⁹¹ In addition, state parties may set up bilateral mechanisms, for example, to facilitate interception of trafficked women and children, and may take steps to supervise employment agencies in order to prevent trafficking in the guise of recruitment. Proposals are also being considered for the appointment of regional and national rapporteurs on trafficking.

4.4.3 Findings

The signing of the *SAARC Trafficking Convention* earlier this year represents a milestone in SAARC member countries’ efforts to combat human trafficking. Although currently limited to the trafficking of women

⁹⁰ The treaty provides that “[t]he Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and privileges of a similar nature.” (Article 7).

⁹¹ SAARC. 2002. *Convention on Prevention and Combating Trafficking in Women and Children for Prostitution*. Kathmandu.

and children for prostitution, the convention provides a framework for regional cooperation that could be extended to address trafficking for other exploitative purposes. Although the convention will not come into effect until it has been ratified by all SAARC member countries, the countries can already proceed to develop bilateral mechanisms for sharing information on trafficked persons and suspected traffickers, and for arranging the prompt, safe, and voluntary return of trafficked persons to their home countries, if appropriate. To facilitate cooperation in the investigation, extradition, and prosecution of crossborder traffickers, it would also be desirable for the SAARC member countries—perhaps through a technical expert group—to compare their respective laws on trafficking and identify areas for possible harmonization. (For example, as discussed in the country sections that follow, there is a wide variation in the sentences imposed by the three countries for particular trafficking offenses. To facilitate extradition of traffickers from one SAARC country to another, it could be useful to harmonize the sentences imposed for similar offenses.) A technical expert group could also assist the SAARC countries in identifying changes in their criminal laws that would be necessary to conform to the new *UN Convention Against Transnational Organized Crime* and its protocols (including the *Trafficking Protocol*). The expert group could benefit from the ongoing work of Thailand's Criminal Law Institute in this area.

4.5 Bangladesh

4.5.1 Legal Framework to Combat Trafficking

As a party to the *1949 Trafficking Convention*, the *1956 Slavery Convention*, CEDAW, CRC and the *Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography*, as well as a participant in recent international and regional conferences and special sessions of the UN General Assembly on women, children, human rights, trafficking, and migration, the Government of Bangladesh has made a number of international commitments to combat human trafficking, particularly trafficking in women and children. These commitments are consistent with a number of provisions of the *Bangladesh Constitution*, including the fundamental rights of equality and equal protection (Article 27); right to be free from discrimination on the basis of religion, race, caste, sex, or place of birth (Article 28); right to protection of the

law (Article 31); prohibition against forced labor (Article 34), torture and cruel, inhuman, or degrading treatment (Article 35); and freedom of movement (Article 36).⁹² The commitments are also reflected in various national plans, including the Fifth Five-Year Plan (1997-2001), the National Policy and National Action Plan for Women's Advancement, the National Child Policy and National Action Plan for Children, and the recently developed NPA on Trafficking and Sexual Exploitation of Children.

Trafficking of persons and related activities can be prosecuted under several national laws. The *Penal Code of 1860*, as amended, provides criminal penalties for kidnapping, abduction, slavery, forced labor, rape, wrongful confinement, selling or buying minors for prostitution, and other offenses, with punishments of seven years or more and/or fines. The *Suppression of Immoral Traffic Act of 1933* includes somewhat lesser penalties for detaining a girl under 18 years against her will in a place of prostitution, or for encouraging or abetting the prostitution of a girl under 18 years. Under the Act, police of a certain rank can remove any girl who appears to be under 18 years from a brothel and, if she appears to be under 16 years, can turn her over to a Juvenile Court who can place her in "suitable custody" until she turns 18. The *Child Marriage Restraint Act of 1929* penalizes any male adult who marries a girl under 16 years, and also penalizes any parent or guardian who facilitates this crime. The *Children (Pledging of Labor) Act of 1933* prohibits any parent or guardian from pledging the labor of a child under 15 years. The *Children's Act of 1974* also provides penalties for cruelty to children, use of children for begging, luring children into a brothel, and other types of exploitation. Under the *Emigration Ordinance of 1982*, registered recruiting agents for overseas employment can lose their licenses and forfeit their security deposit if they are found to have violated the ordinance or to have been guilty of other misconduct (including coercion or fraud in inducing someone to migrate).

By the 1980s, women's groups in Bangladesh were increasingly speaking out against the various forms of violence against women and girls, including trafficking. Because the *Penal Code* and other existing laws were not seen as effective in combating these problems, a series of special laws were enacted, beginning with the *Cruelty to Women (Deterrent Punishment) Act of 1983*. This law was superseded by the *Woman and Child Repression (Special Provisions) Act of 1995* (the 1995

⁹² *Constitution of the People's Republic of Bangladesh, as amended*. Available: <http://www.bangladesh.gov.org/pmo/constitution/index.htm>.

Act), which has recently been repealed and replaced by the *Women and Children Repression Prevention Act of 2000* (the *2000 Act*). The *2000 Act* establishes extremely severe penalties for a number of offenses against women and children, including intentional acid burns, trafficking, kidnapping, holding for ransom, rape, sexual harassment, dowry death, and crippling or disfiguring a child for beggary or other purposes. With regard to trafficking in women, for example, the *2000 Act* provides:

Whoever brings or traffics or sends any [woman] abroad with the intention of using that woman in prostitution or using for unlawful or immoral purposes or buys or sells or lets to hire or hands her over for any kinds of torture or . . . similar reason, keeps a woman in his possession, [care] or puts under his custody, shall be punished with death sentence or life imprisonment or be punished with imprisonment which may extend to twenty years but not less than ten years and in addition, shall also be liable to fine (Section 5[1]).⁹³

Similarly severe penalties are provided for trafficking in children (Section 6[1]). The penalty for kidnapping or abducting a woman or child for any other purpose is at least 14 years of “rigorous imprisonment” plus a fine (Section 7). Although there is an emphasis on trafficking for prostitution, these provisions also extend to trafficking for “unlawful” purposes, and therefore could conceivably apply to trafficking for illegal purposes such as forced labor. The provisions also apply to both internal and crossborder trafficking. With regard to prostitution, however, Section 5(1) might also be applied to anyone who travels with or otherwise assists a woman engaged in commercial sex work, without a requirement to show coercion, deception, or other abuse.

The *2000 Act* builds on a number of features of the *1995 Act* that were intended to facilitate and expedite prosecutions for trafficking and other offenses against women and children. For example, the Act provides that offenses will be tried in special Tribunals for Suppression of Violence Against Women and Children, 10 of which have been established.⁹⁴ The Act also provides a number of time limits to expedite investigation and

⁹³ *Women and Children Repression Prevention Act 2000*, translated by S.A. Farouk, Bangladesh National Woman Lawyers' Association.

⁹⁴ Coomaraswamy, Radhika, 2001. op. cit. p. 20.

prosecution of cases, permits a case to proceed without a police report, and prohibits the disclosure of the identities of women and child victims by the news media. The fines collected from those convicted under the Act may be turned over by the special tribunal to the victims as compensation. The *2000 Act* also incorporates a number of improvements based on the recommendations of women lawyers and activists, such as providing flexibility to magistrates to take depositions in the place where an offense occurred or any other place, and allowing the admission at trial of depositions, medical examinations, and other expert reports even where the witness or expert cannot appear. In response to the deaths of two women being held in jail, and reports of other abuses of women in jail, the *2000 Act* authorizes the special tribunals to place women or children in other custodial arrangements during the trial of an offence under the act, including government-run homes or the custody of other organizations or individuals.

4.5.2 Enforcement of Laws Against Trafficking

The Government of Bangladesh itself acknowledges serious problems in the enforcement of laws against trafficking, including the *2000 Act*. In its 1997 report to the CEDAW Committee, the Government noted that implementation of the laws was weak, in part because members of law enforcement were often themselves involved in trafficking activities, and that the laws were sometimes misapplied with the result that victims were charged with immoral behavior and put in jail. In general, the Government noted that the judicial system is difficult for women to access, since court proceedings are lengthy and court officials are often hostile or unsympathetic to them. The Government acknowledged that law enforcement authorities and the judiciary need to be better sensitized, and that the repatriation of Bangladeshi women who have been trafficked to other countries also needs to be facilitated.⁹⁵

Women lawyers and civil-society groups in Bangladesh have also noted a number of weaknesses and flaws in the enforcement of laws against trafficking. In general, they argue that protective laws for women, such as the *2000 Act*, “create an illusion that women enjoy a privileged and protected position in Bangladeshi society” (Ali 2001: 55). In practice, lawyers who represent women who have been trafficked or suffered other

⁹⁵ Government of Bangladesh. 1997. *Combined Third and Fourth Periodic Report on Elimination of Discrimination Against Women in Bangladesh*.

forms of violence find that women are either intimidated by the perpetrators from seeking redress, or if they try to file a report with the police, their reports are not accurately recorded or fully investigated. Although the *2000 Act* provides severe penalties for trafficking, very few defendants have been charged and convicted under the act (or its predecessor, the *1995 Act*). For example, there were only three convictions for trafficking in 2000.⁹⁶ In contrast, there is a strong tendency for prosecutors to charge crossborder traffickers of women and children under the *Passport Act*, which only carries a small fine (Tk. 500), rather than the *2000 Act*.⁹⁷

Various explanations are offered for the low number of trafficking convictions: that law enforcement officers and prosecutors are bribed or otherwise pressured to charge under the *Passport Act* or another lesser offense; that they do not have sufficient witnesses and documentary evidence to prosecute under the *2000 Act*, and therefore opt for a lesser charge; or that prosecutors do bring cases under the *2000 Act*, but judges are reluctant to convict where the penalty is death or life imprisonment. The UN Special Rapporteur on Violence Against Women has separately expressed concern about the application of the death penalty under the *2000 Act* from a human rights perspective.⁹⁸ The provision of the death penalty for some offenses under Bangladesh law may also hamper efforts to harmonize antitrafficking laws within South Asia under the *SAARC Trafficking Convention*, since some countries (e.g., Nepal) have recently abolished the death penalty. In the case of children who have been trafficked through fraudulent marriages, it is also difficult to prosecute the “husband” and his accomplices under the *Child Marriage Restraint Act* because births are not typically registered, and therefore the child’s age cannot be established easily.

Lawyers who have assisted trafficked women and children acknowledge the difficulty of prosecuting traffickers under the *2000 Act* because of the victims’ reluctance to participate as witnesses, particularly where family or community members or law enforcement personnel participated in the trafficking, or where the trafficker is politically influential. In this case, the “safe custody” provisions of the *2000 Act* become especially important. However, civil-society groups have

⁹⁶ United States Department of State. 2001. *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, July 2001. Available: <http://www.state.gov>.

⁹⁷ Ali, Salma, ed. 2001b. *Movement Against Trafficking and Sexual Exploitation*, October Special Bulletin. Dhaka: BNWLA.

⁹⁸ Coomaraswamy, Radhika. 2001. op.cit. p. 20.

expressed concern that the *2000 Act* gives the special tribunals complete discretion to decide whether a trafficked woman or child needs custodial protection and, if so, whether it should be in a government home, NGO shelter, or other arrangement.⁹⁹ The “safe custody” provision is especially problematic in the case of women, who may or may not want protection. There is also evidence that, despite the issuance of a circular by the Prime Minister’s office to direct magistrates that women and children in need of protection should be sent to government shelters rather than kept in jail, a large number of women and children continue to be detained in jail.¹⁰⁰ This is troubling, given several reported cases of abuse of women in custody by jail personnel, including two recent deaths.¹⁰¹ There are also reports of abuse in government-run vagrant homes and correction centers, including reports of women being sold into prostitution or trafficked from these homes.¹⁰² As an alternative, a number of NGOs have recently set up shelters where victims of trafficking and other offenses can go for protection and rehabilitation. However, it is generally agreed that the number of NGO shelters is insufficient to handle all those in need of assistance.

Crossborder trafficking of women and children raises additional challenges. In particular, because there is no formal arrangement between **Bangladesh** and the destination countries, mainly **India**, for sharing information on trafficked persons and arranging for their rehabilitation and/or repatriation, it can take years to arrange the safe return of a trafficked woman or child, even when family members or NGOs have located the person and she or he wants to return. The repatriation process is complicated by the fact that women or children who have been trafficked, and subsequently “rescued” from a brothel or sweatshop, may not divulge their true names, nationality, and other personal information because of shame or fear that they will be subject to worse treatment as an undocumented foreigner. Where such a person does contact a Bangladeshi consulate, the consular officials may not believe the person is Bangladeshi, or may be reluctant to help for other reasons.

NGOs such as the BNWLA have had considerable success in assisting trafficked women and children to return to Bangladesh, often in partnership with NGOs in the destination country. In some cases, this has required filing a petition in court to direct the Ministry of Foreign

⁹⁹ Hussain, Hameeda, ed. 2001. op. cit. p. 95.

¹⁰⁰ Ibid. p. 95.

¹⁰¹ Ibid, p. 131.

¹⁰² Ibid, p. 132.

Affairs to repatriate the trafficked person. For example, in *Abdul Gafur v. Secretary, Ministry of Foreign Affairs et al.*,¹⁰³ a young woman who had been trafficked from Bangladesh to India as a child was subsequently taken into custody and detained in an Indian remand home for 5 years. Reviewing a petition filed on the young woman's behalf by BNWLA, the High Court found that the young woman's right to protection of law under Article 31 of the *Bangladesh Constitution* had been violated by the inaction of the High Commission of Bangladesh in India to provide her with legal support, and directed the Ministry of Foreign Affairs to initiate action to repatriate her.

As the Government of Bangladesh acknowledged in its last report to the CEDAW Committee, victims of trafficking and other forms of abuse can be harassed and re-victimized by the application of laws intended to protect them. The *Bangladesh Constitution* provides for the adoption of measures to prevent prostitution (Article 18[2]), but commercial sex work by a woman over 18 years is not strictly prohibited, although related activities such as soliciting and managing a brothel are criminal offenses. In practice, however, commercial sex workers are often subject to harassment and violence by police. Moreover, women who are considered "suspicious" are liable to arrest and detention under Section 54 of the *Criminal Procedure Code*. Similarly, street children may be picked up by police under the *Vagrancy Act of 1943* and detained in vagrant homes or correction centers. The conditions of these centers have been criticized by both local and international NGOs. However, these centers are considered preferable to jail where, despite the circular noted above, children are still being kept in custody.¹⁰⁴ A growing number of NGOs are establishing and expanding shelters for women and children who are victims of trafficking or other abuse, but the number is still inadequate.

A number of steps are being taken to address inadequacies in enforcement of the laws relating to trafficking. In addition to the special tribunals for hearing cases under the *2000 Act*, women's police units have been set up to investigate cases of violence against women, including trafficking, and arrange protective custody for women if needed. A special unit in the police Criminal Investigation Department has also been established to investigate trafficking and other cases on an expedited

¹⁰³ Writ Petition No. 4031 of 1997, *Bangladesh Legal Decisions* XVII: 560-62.

¹⁰⁴ Hussain, Hameeda, ed. 2001. op. cit., p. 178.

basis. A number of NGOs are engaged in legal literacy and awareness training at the community level, including working with local elected officials, and have set up cells to provide legal advice and investigate cases involving trafficking and other abuses. Some NGOs such as the BNWLA represent trafficked women and children in court proceedings and collaborate with NGOs in other countries to arrange the safe return of trafficked persons. They are also collaborating with government agencies to provide training to border officials, police, and court personnel on proper application of antitrafficking laws and treatment of trafficking victims. Action Against Trafficking and Sexual Exploitation of Children (ATSEC), a coalition of NGOs working to combat trafficking, is also developing proposals to formalize arrangements between Bangladesh and key destination countries such as India to facilitate exchange of information about trafficked and detained persons and to expedite their repatriation. As mentioned in the Bangladesh Country Report for this RETA, efforts are also being made to establish an effective system for registering births and marriages under the draft Local Government Act.

4.5.3 Other Relevant Laws and Policies

As the Government of Bangladesh acknowledged to the CEDAW Committee in its 1997 report, the lack of effective implementation of laws relating to trafficking in women and children is due in large part to women's subordinate status in the society, as well as the corruption of border officials and police. In its report, the Government noted that despite its guarantees of equality and equal treatment, the *Bangladesh Constitution* allows for personal laws that discriminate against women in the areas of inheritance, marriage, divorce, and guardianship of children, and that various discriminatory customs and practices also persist which contribute to women's inferior social, economic, political, and legal status. Many of these discriminatory laws and practices contribute to the vulnerability of women and girls to trafficking. For example, the practice of giving dowry continues, especially in rural areas, despite the *Dowry Prohibition Act* and the tremendous economic pressure that dowry places on poor families. The Association for Community Development (ACD), an NGO that works in poor rural communities, has found that large numbers of girls from poor families are trafficked to India or Pakistan through "marriages" arranged with Indian or Pakistani men who do not insist on a dowry. The marriages typically are not registered, and when the girls

arrive in the destination country, they may be sold to brothels or factory owners, or kept in slave-like conditions to perform domestic work and provide sex to their “husbands” or other men.¹⁰⁵

Discriminatory laws and practices relating to women’s employment can also increase their vulnerability to trafficking. Women in Bangladesh generally have more limited work opportunities than men because of their more limited access to education and technical training, social constraints on their mobility (particularly in rural areas), and greater household responsibilities. With the expansion of export manufacturing industries such as ready-made garments, increasing numbers of young women have migrated to Dhaka to work in garment factories. However, in the garment industry, women earn 22-30% of men’s wages, reflecting men’s predominance in more skilled occupations.¹⁰⁶ Many garment factories were hastily constructed and are subject to fire and other hazards. Workers complain that they are not paid regularly and that overtime payments are delayed. None of the garment factories provide housing, despite the fact that more than 90% of their workers are migrants, and therefore women workers typically live in insecure accommodations that are far away from the factories. NGOs have received a large number of complaints of harassment, assault, and rape from women workers, particularly when traveling back and forth to work.¹⁰⁷ These conditions persist in spite of the *Factories Act of 1965* and other laws and regulations, which establish standards relating to conditions of work, working hours, occupational health and safety, benefits, and other matters. There is also evidence that garment factories are used as “recruiting stations” for undocumented migration.¹⁰⁸ In addition, a large number of garment factories are closing as a result of the worldwide economic downturn, and women who are laid off are vulnerable to traffickers who promise them good jobs in other countries. This trend is expected to continue as the worldwide market for textiles and clothing is liberalized under the *Agreement on Textiles and Clothing* concluded during the Uruguay Round of multilateral trade negotiations,¹⁰⁹ and Bangladesh loses the benefit of import quotas it was granted previously by the United States and other textile-importing countries.

¹⁰⁵ ACD. 1995. *International Migration of Women: A Study on Causes and Consequences*. ACD. 2001. *Paradigms of Women Trafficking in Bangladesh*.

¹⁰⁶ ADB. 2001. *Country Briefing Paper: Women in Bangladesh*. Manila. p. 12.

¹⁰⁷ Hussain, Hameeda, ed. 2001. op. cit, p. 200.

¹⁰⁸ Ibid, p. 219.

¹⁰⁹ Population Council. 2001. op.cit. and Shamin, I. and Kabir. 1998. op cit.

With limited work opportunities in Bangladesh, many women seek to migrate for work in other countries of South Asia, Southeast Asia, and the Middle East. However, since the early 1980s the Government has placed restrictions on women's migration for employment, on the basis that women need protection from abusive work environments overseas. Civil-society groups have resisted these restrictions, and at present the migration ban—contained in a 1998 Circular—applies only to domestic workers working for non-Bangladeshis abroad.¹¹⁰ Nevertheless, economic necessity still compels many women with limited skills to migrate in search of work. Civil-society groups argue that the ban on migration of female domestic workers may actually lead to an increase in trafficking, since women who are irregular migrants are more likely to rely on unscrupulous agents who may traffic them into abusive work situations.¹¹¹ A study recently carried out by the Refugee and Migratory Movements Research Unit of the University of Dhaka recommended that the policy of restricting women's migration be re-evaluated "in light of the reality that it has given way to undocumented migration of women" and violates women's constitutional right to work.¹¹²

The precarious working conditions of children in Bangladesh also contribute to their vulnerability to trafficking. Although the *Children (Pledging of Labor) Act of 1933* prohibits the pledging of children under 15 years for labor, and a number of other laws set minimum ages for different forms of work, these laws are not well enforced. In any case, the minimum age laws apply to formal sector employment, while the vast majority of child workers are in the informal sector. One study identifies ship breaking and domestic work as the most hazardous occupations for children.¹¹³ While children involved in ship breaking can suffer serious physical accidents, children in domestic work are frequently subject to long hours, strenuous tasks, and physical abuse. Child workers who escape such abusive situations frequently find themselves on the street in even more precarious circumstances, where they may be harassed or abused by police or others, or picked up by traffickers.

¹¹⁰ Siddiqui, Tasneem. 2001. *Transcending Boundaries: Labour Migration of Women from Bangladesh*. Dhaka: University Press Limited. p. 60.

¹¹¹ Hussain, Hameeda, ed. 2001. op. cit., p. 219.

Ali, Salma, ed. 2001a. *Violence Against Women in Bangladesh* – 2000. p. 41.

¹¹² Siddiqui, Tasneem, ed. 2002. *Beyond the Maze: Streamlining Labour Recruitment Process in Bangladesh*. p. 79.

¹¹³ Hussain, Hameeda, ed. 2001. op.cit., p. 172.

4.5.4 Findings

Government and civil-society sources suggest a number of avenues for improving the enforcement of the *2000 Act* and other relevant laws to deter and punish traffickers, ensure that trafficked women and children are not harassed by the application of these and other laws, and reduce the vulnerabilities of women and children to trafficking. Possible actions include:

- Review of the *2000 Act*, *Penal Code*, *Criminal Procedure Code* and other relevant laws to identify reforms or new legislation needed to bring the laws into conformity with the *SAARC Trafficking Convention*, the *UN Convention Against Transnational Organized Crime* and related *Trafficking Protocol* (including in particular a comparison of criminal penalties for trafficking offenses with those of other SAARC countries);
- Consideration of NGO proposals to revise the safe custody provision of the *2000 Act* (or its implementation by the special tribunals) to take trafficked women's wishes into account in any safe custody decision, and to assign safe custody to reputable NGO shelters rather than to government-run facilities whenever possible;
- Monitoring of complaints, arrests, and prosecutions of trafficking and related offenses under the *2000 Act*, *Penal Code*, *Passport Act*, and other laws to identify patterns and possible biases in the handling of trafficking cases by law enforcement officials and judges;
- Monitoring of arrests and dispositions under Section 54 of the *Criminal Procedure Code* and the *Vagrancy Act* to ensure that women and children are fairly and humanely treated in the application of these laws;
- Consideration of NGO and other proposals to make court procedures more gender-sensitive and child-friendly;
- Collaboration between relevant government ministries and NGOs experienced in repatriating trafficked persons to develop mechanisms for prompt, safe, and voluntary return of trafficked persons, and for extradition of suspected traffickers, for further discussion with counterparts from India and other destination countries;
- Review of the 1998 Circular limiting migration of certain categories of domestic workers, and consideration of alternative

- ways to protect women migrants from abuse in other countries;
- Review of training, compensation, and performance evaluation systems in law enforcement agencies to identify ways to curb corruption and abuse of power by police and border officials;
 - Continued effort to improve enforcement of labor laws, to extend labor protections to the informal sector, and to encourage adoption of voluntary codes of conduct by private-sector associations and firms; and
 - Establishment and enforcement of workable systems for registering births and marriages (for example, through provisions of the draft Local Government Act mentioned in the Bangladesh Country Report).¹¹⁴

4.6 India

4.6.1 Legal Framework to Combat Trafficking

Like Bangladesh, India has made a number of international commitments to combat the trafficking of persons, as a party to the *1949 Trafficking Convention*, the *1956 Slavery Convention*, CEDAW and CRC, and as a participant in recent international conferences and special sessions of the UN General Assembly on women, children, and human rights. There is also a strong constitutional basis for combating the trafficking of persons. Article 23 of the *Constitution of India* prohibits “the traffic in human beings. . .and other similar forms of forced labor,” and the right to be free from trafficking or forced labor is among the fundamental rights that are enforceable by the Supreme Court of India under Article 32. Other fundamental rights that are relevant are the rights to equality and equal protection (Article 14); to be free from discrimination on grounds of religion, race, caste, sex ,or place of birth (Article 15); to life and liberty (Article 21); to protection from arrest and detention except under certain conditions (Article 22); and the right of children under 14 years to be free from work in factories, mines, or other hazardous employment (Article 24). A number of principles of state policy articulated in the Constitution are also relevant, including that men and women should have the right to an adequate means of livelihood and equal pay for equal work, that men, women, and children should not be forced by

¹¹⁴ ADB. 2002. *RETA 5948: Combating Trafficking of Women and Children in South Asia – Bangladesh Country Report*.

economic necessity to enter unsuitable avocations, and that children and youth should be protected against exploitation (Article 39); that the legal system should ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities (Article 39A); and that all workers should have a living wage and conditions of work to ensure a decent standard of life (Article 43).¹¹⁵ The commitments to address the problem of trafficking in persons are also reflected in a number of national and state¹¹⁶ action plans, including in particular the Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children adopted in 1998.

In India, as in Bangladesh, trafficking of persons and related activities can theoretically be prosecuted under a number of laws. Several of these laws have common roots in British colonial laws that still remain in force, with amendments. For example, the *Indian Penal Code of 1860*, as amended, imposes criminal penalties for kidnapping or abduction for various purposes, buying or selling a person for slavery, buying or selling a minor for prostitution, procuring a minor girl, rape, and other offenses. The *Child Marriage Restraint Act of 1929* prohibits marriages in which the female is under 18 years (under 21 years for the male). The *Children (Pledging of Labour) Act of 1933* prohibits parents or guardians from pledging a child for employment, but has been effectively superseded by the *Child Labour (Prohibition and Regulation) Act of 1986*, which does not prohibit all forms of child labor but rather sets hours and conditions of work for children under 14 years. The *Bonded Labour System (Abolition) Act of 1976* purports to free all bonded laborers, cancel their outstanding debts and prohibit the creation of new bonded labor arrangements, in fulfillment of the constitutional prohibition of all forms of forced labor. The *Juvenile Justice (Care and Protection of Children) Act of 2000* consolidates and amends previous laws relating to both children “in conflict with law” and children “in need of care and protection,” including those who have been or are likely to be trafficked, abused, or exploited. Given India’s position as a destination country for many trafficked persons,

¹¹⁵ *Constitution of India, as amended*. Available: <http://alfa.nic.in/const/const.html>.

¹¹⁶ Under India’s federal system of governance, the national and state governments have both exclusive and concurrent powers. Of relevance here, the national government’s exclusive powers include admission into, and emigration or expulsion from, the country, interstate migration, and implementation of treaty obligations and decisions taken in international conferences and other international bodies. The states’ exclusive powers include maintenance of public order, the police, prisons and reformatories, and public health. The national government and the states have concurrent powers with respect to the criminal law, criminal procedure, preventive detention, administration of justice, vagrancy, personal law matters, labor conditions, and education (*Constitution of India*, Seventh Schedule).

especially from other South Asian countries, the *Foreigners Act of 1946* is also relevant. With regard to trafficking of persons from Nepal, the 1950 *Treaty of Peace and Friendship* between India and Nepal also plays a part, since it provides national treatment to citizens of the other country in matters of movement, residence, and other privileges.

The main legislative tool for combating trafficking in persons in India is the *Immoral Traffic (Prevention) Act of 1956* (ITPA), which was last amended in 1986. The original legislation, passed in 1956 as the *Suppression of Immoral Traffic in Women and Girls Act*, was intended to implement India's obligations under the *1949 Convention*. As discussed earlier, that treaty is concerned exclusively with the suppression of trafficking for prostitution and exploitation of prostitution through various means. The ITPA does not define "trafficking" nor does it establish criminal penalties for "trafficking" as such. It also does not directly criminalize all commercial sex work, though it does criminalize a number of related activities. In the ITPA, "prostitution" is defined as "the sexual exploitation or abuse of persons for commercial purposes" (Section 2[f]). The activities that are criminalized under the act include keeping a brothel or allowing premises to be used as a brothel (Section 3); living on the earnings of prostitution (Section 4); procuring a person for prostitution, with or without consent (Section 5); detaining a person in a brothel or other premises for prostitution, with or without consent (Section 6); prostitution in or near a public place (Section 7); soliciting for prostitution (Section 8); and seducing a person for prostitution while in custody (Section 9). The penalties for these offences vary from 3 months to 10 years, plus a fine, with stiffer penalties (up to life imprisonment) for offences involving a child under 16 years. The penalties for solicitation vary depending on the gender of the solicitor: for a woman, up to 6 months for the first offence and up to one year for subsequent offences; for a man, 7 days to 3 months. In addition, in the case of a female offender, in lieu of a prison sentence, the court may place the woman in a corrective institution for between 2–5 years, or until there is a determination that "there is a reasonable probability that the offender will lead a useful and industrious life" (Section 10A).

The ITPA authorizes warrantless searches of premises, provided the officers conducting the searches are accompanied by at least two women police officers and "two or more respectable inhabitants. . . of the locality" (Section 15), and permits the police to "rescue" any person from a place where prostitution is believed to be taking place (Section 16). The Act also authorizes a magistrate to close down any place believed to be

operating as a brothel (Section 18), and to evict any person determined to be a prostitute from any place in the jurisdiction (Section 20). In the case of a “rescue,” the Act gives a magistrate the discretion to place any rescued child (under 16 years) or minor (16–18 years) in an authorized custodial institution, and to place any rescued person in a protective home or other custodial arrangement for up to 3 years if it is determined that the person is “in need of care and protection” (Section 17). The ITPA authorizes state governments to establish protective homes and corrective institutions (Section 21), special courts (Section 22A), and implementing rules (Section 23) to carry out its purposes. State governments may also appoint “special police officers”—and the national government may appoint “trafficking police officers” to enforce the act. State courts are also authorized to use summary procedures to try offenses under the act (Section 22B). Following the original enactment of the *Suppression of Immoral Traffic in Women and Girls Act*, states adopted fairly uniform implementing rules. The State of Maharashtra has also enacted its own *Organized Crime Act*, which could be used to prosecute more organized forms of trafficking.

4.6.2 Enforcement of Laws Against Trafficking

In 1998, the Committee on Prostitution, Child Prostitutes and Children of Prostitutes, which had been established by the Department of Women and Child Development under the Ministry of Human Resource Development in response to a Supreme Court order, issued a *Report and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children*. In the report, the Committee acknowledged that, “[i]n spite of many interventions for prevention, law enforcement, rescue and rehabilitation there does not appear to have been much impact on the prevalence of commercial sexual exploitation of women and child. . . .” Several reasons were provided, including:

- Lack of seriousness among law enforcement machinery and administration;
- Risks faced by social workers, NGOs, and government officials working in red-light areas and among victims;
- Insufficient awareness about the prevalence of child trafficking;
- Lure of a comfortable lifestyle, which made it more difficult to “rehabilitate” some victims;
- Social stigma and family problems facing victims;
- Difficulties in estimating the age of child victims;

- Inadequate institutions for care and rehabilitation of “rescued” victims;
- Lack of coordination between border police of neighboring countries to stop cross-border trafficking; and
- Lack of support lines and drop-in centers for women in need.¹¹⁷

To address these factors, the Committee made a number of recommendations in a Plan of Action, relating to (i) prevention, (ii) trafficking, (iii) awareness raising and social mobilization, (iv) health services, (v) education and child care, (vi) housing and other amenities, (vii) economic empowerment, (viii) legal reforms and law enforcement, (ix) rescue and rehabilitation, (x) institutional machinery, and (xi) methodology. The UN Special Rapporteur on Violence Against Women commended the Plan for its comprehensiveness and innovation, particularly in its provisions on awareness raising and provision of health services. However, she expressed concern about some of its provisions, such as those relating to the removal of children of sex workers from their mothers by “counseling, cajoling, and/or coercion”.¹¹⁸ This approach has also been questioned by NGOs who run programs to provide care to children of sex workers in the red light districts.¹¹⁹

In the area of legal reforms and law enforcement, the Plan of Action acknowledges that “[t]he present legal framework ... results in revictimisation of the victims of exploitation while the exploiters mostly go scot-free”.¹²⁰ In particular, statistics show a strong gender bias in the implementation of antitrafficking laws, with roughly four times as many arrests of women as of men. A study of crime statistics for 1980–1987 also shows a strong class bias, with no landlord ever having been arrested, and fewer than 600 brothel keepers being arrested, compared with over 9,000 sex workers arrested under the ITPA. Sex workers are also extensively harassed under the State Police Acts. For example, the same study of crime statistics found that in 1980–1987 only about 1,400 pimps were arrested, compared with almost 54,000 sex workers, under the Bombay Police Act alone.¹²¹ The Plan of Action therefore proposes a

¹¹⁷ Government of India. 1998. Department of Women and Child Development, Ministry of Human Resource Development. Report of the Committee on Prostitution, Child Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children. Delhi. pp. 11–12.

¹¹⁸ Coomaraswamy, Radhika. 2001. op.cit., p. 32.

¹¹⁹ Joint Women’s Programme. 2002a. *A Uniform Policy for Rescue, Rehabilitation/Repatriation of Victims of Trafficking*. Paper submitted to the Indian Department of Women and Child Development.

¹²⁰ Government of India. 1998. op.cit., p. 22.

¹²¹ D’Cunha, Jean. 1991. *The Legalization of Prostitution: A Sociological Inquiry into the Laws Relating to Prostitution in India and the West*. Bangalore: Wordmakers. p. 51.

review of the current laws to ensure that “victims ... are not revictimised and that all the exploiters, not excluding clients, traffickers, parents/guardians and others who collude with them are liable for punishment”.¹²² Specific steps to be taken include

- Modification of criminal procedures to make them more gender-sensitive and child-friendly;
- More provision for NGO participation in criminal proceedings on behalf of victims;
- Provision for confiscation of assets and income of exploiters;
- Better enforcement of the *Bonded Labour System (Abolition) Act*;
- Setting up of exclusive antitrafficking and prevention cells, including women police officers, in major cities and high-impact areas;
- Provision of counseling and free legal advice to women in custody;
- Establishment of task forces in major cities to coordinate activities of government agencies, NGOs, and others;
- Review of laws relating to elimination of child pornography; and
- Continuation of police raids on brothels as permitted under the ITPA.¹²³

Brothel raids, which began with major raids in the red-light areas of Mumbai in 1996, are one of the more problematic strategies under the ITPA. Although they have been justified in order to “rescue” children forced into prostitution, a number of NGOs working in red-light districts have raised concerns that the police raids are abusive and counter-productive. In particular, they note that there have been instances of police brutality during raids; that the police have rounded up women as well as children during the raids; that these women languish in remand homes for long periods because of delays in medical examinations and court delays, without access to counseling or other services; and that as a result of the raids, many sex workers are leaving the red-light districts and continuing their activities outside the range of health and other established support services¹²⁴. Others have suggested that some police raids are staged for political effect, and may be motivated by communal

¹²² Government of India. 1998. op.cit., p. 22.

¹²³ Ibid., pp. 22–23.

¹²⁴ Joint Women’s Programme. 2002b. Joint Letter to the Chairperson, National Commission for Women, dated 21 February 2002.

or antimigrant bias (since most sex workers in India are from lower castes, tribal groups, or neighboring countries). It has also been suggested that any “rescue” operations must be coordinated with viable alternative livelihood programs; otherwise, sex workers will inevitably return to their former activities out of economic necessity.

Following the recommendation of the Plan of Action to review existing laws on trafficking, a number of proposals have been floated in the last few years to amend the ITPA. A proposal of the national government, which has recently been circulated to state governments, NGOs, and others for comment, includes several notable changes. In particular, the proposal would (i) add a new definition of “trafficking in persons” based on the new *UN Trafficking Protocol*; (ii) change the definition of “child” from anyone under 16 to anyone under 18 years; (iii) delete the provisions on soliciting (Section 8) and removal of a prostitute from any place (Section 20); (iv) increase the penalties for some other offenses; (v) add a provision that trafficking for sexual exploitation should be treated as a multiple rape under the *Indian Penal Code (IPC)*; (vi) provide for confiscation of traffickers’ property; (vii) set time limits for recording of evidence and provide for *in camera* proceedings to protect the privacy of victims; and (viii) provide for protection of voluntary agencies involved in trafficking prevention, rescue, and victim protection activities. The proposed deletion of Sections 8 and 20 is particularly commendable, since these sections appear to have been used primarily against sex workers rather than traffickers. The inclusion of a trafficking definition based on the new *UN Trafficking Protocol* is also forward-looking, and would provide a basis for reorienting the ITPA to address the broader range of abuses covered in the protocol. (At present, the ITPA is still primarily an antiprostitution rather than an antitrafficking statute.) Even with the proposed changes, however, the challenge will still be to enforce the ITPA against traffickers and other exploiters of women and children, but in a way that respects the autonomy of adult sex workers and does not violate their parental and other rights.

As mentioned in the India Country Report for this RETA, it is estimated that about 90% of the trafficking in women and children in India is internal, that is, either within a state or between states. Although the ITPA and other national laws apply in all states of India, their enforcement is primarily left to the state government, and the states may enact their own laws (such as Maharashtra’s new *Organized Crime Act*). Interstate coordination therefore is required in order to address the internal trafficking of persons.

While only representing about 10% of all trafficking activity in India, the trafficking of persons from Bangladesh, Nepal, and other countries raises additional complications. As noted in the previous discussion of Bangladesh, there are no formal bilateral arrangements currently in place between Bangladesh and India to share information about trafficked persons and coordinate their safe, voluntary repatriation. At present, repatriation is taking place on an ad hoc basis, facilitated by the advocacy of NGOs in both countries. Similar coordination problems exist between India and Nepal, although in this case the status of trafficked persons is different by virtue of the *1950 Treaty of Peace and Friendship*, which effectively established an “open border” between the two countries.

Whereas a woman or child trafficked into India from Bangladesh would most likely be considered an illegal migrant under India’s *Foreigners Act*, a woman or child trafficked into India from Nepal would ordinarily have the right to reside in India under the 1950 Treaty. However, the prevailing practice would seem to be to treat trafficked persons from Nepal similarly to those from Bangladesh, and to make arrangements to “repatriate” them after they have been “rescued.” As noted earlier, this also seems to be the assumption under the new *SAARC Trafficking Convention*. In the absence of formal bilateral mechanisms to address trafficking in persons, there have been some informal initiatives. As mentioned in the previous discussion of Bangladesh, proposals are being considered to formalize the repatriation arrangements between India and Bangladesh, based on the cooperative work being done by NGOs on both sides of the border. In addition, law enforcement officials from Nepal and the bordering states of India have begun to meet periodically, to share information and strategies for stemming the trafficking activity along the Nepal-India border. Informal consultations are also beginning to take place among officials from the main antitrafficking agencies in the countries, including India’s Department of Women and Child Development (DWCD).

In addition to the law reform proposals and bilateral discussions discussed above, there are a number of other initiatives at the national and state level to improve the equitable enforcement of laws relating to trafficking. These include the development of a police training manual by the DWCD, with support from UNICEF, and various training and sensitization programs for police being carried out at the state level with the involvement of NGOs. The state of Andhra Pradesh is developing a policy for rescue and rehabilitation, and NGOs are also developing proposals in this area. Several states have established women’s police

cells, as well as dedicated officers or units to deal with trafficking cases. In some red-light districts, sex workers have successfully organized, and are effectively deterring the trafficking of children into the brothels in these areas. Several public interest cases have also been brought in the courts, which have resulted among other things in the monitoring of conditions in some of the protective homes where women and children are remanded under the ITPA. In addition, an NGO, Society to Help Rural Empowerment and Education (STHREE), has challenged corrupt lawyers who assist suspected traffickers through false court submissions and other means.

4.6.3 Other Relevant Laws and Policies

In its 1998 report, the Committee on Prostitution, Child Prostitutes and Children of Prostitutes identified several factors tending to increase the vulnerability of women and children to sexual exploitation and other forms of abuse, including traditional practices, the loss of traditional means of livelihood, economic distress due to lack of economic opportunity, widowhood, separation from husbands, abandonment by families, and migration. In a similar vein, the CEDAW Committee found in its review of the Government of India's initial report in 2000 that "widespread poverty, such social practices as the caste system and son preference, as reflected in a high incidence of violence against women, significant gender disparities and an adverse sex ratio" present major obstacles to women's advancement despite constitutional guarantees of gender equality and a number of affirmative action measures taken by the Government over the years.¹²⁵ As in Bangladesh, the practices of dowry and child marriage, both of which are prohibited by statute, persist and directly contribute to the trafficking problem. Poor parents try to avoid the dowry obligation by marrying their daughters at a young age to men from other states or countries who do not demand dowry. The lack of effective birth and marriage registration systems make it more difficult to prosecute these fraudulent husbands and their accomplices when they move their child brides to another city or state and sell them into prostitution or forced labor situations. The persistence of bonded child labor, despite statutory prohibitions on bonded labor and restrictions on child labor, also creates a climate in which the trafficking of children for prostitution and hazardous

¹²⁵ UN CEDAW. 2000. *Report on the Twenty-second Session (17 January–4 February 1999) and Twenty-first Session (7–25 June 2000) of the CEDAW Committee*, p. 9–12.

work—such as carpet weaving, beedi rolling, and silk weaving—can more easily take place.¹²⁶

The India Country Report for this RETA¹²⁷ also documents how processes of economic development and integration, such as the commercialization of agriculture and the replacement of traditional livelihoods (such as handloom weaving) with more mechanized processes, are forcing large numbers of poor people, including women, to migrate in search of alternative work. Statutes such as the *Factories Act of 1948*, *Minimum Wages Act of 1948*, *Equal Remuneration Act of 1976* and *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act of 1979*, and special labor regulations for specific industries such as beedi and cigar rolling, mines, and plantations, are well-intended but not vigorously enforced. In any case, India's labor laws do not extend protection to the majority of workers in the informal sector. As the Country Report notes, conditions of work in factories, quarries, and other work sites are typically strenuous and wages for unskilled workers are extremely low. Women and girls working in factories and quarries can be sexually exploited by their supervisors. Women in rural areas who can only find seasonal work may also supplement it with sex work as a survival strategy for themselves and their families. In these circumstances, women and girls are particularly vulnerable to traffickers, who promise them escape and a better life in the city or in another country.

Women lawyers, activists, and NGOs are currently advocating two new pieces of legislation that would address some of the vulnerabilities that can lead to trafficking. One is a proposed bill on domestic violence, which would provide criminal penalties for some of the domestic abuses that force many women to leave their spouses and families. The other is a proposed bill on protection of domestic workers, who are frequently subject to physical and sexual abuse by their employers or other household members.

4.6.4 Findings

The 1998 Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes, and experience of lawyers and NGOs working with survivors of trafficking, suggest several approaches to improve the enforcement of the ITPA and other laws against traffickers rather than

¹²⁶ Human Rights Watch. 1996. *The Small Hands of Slavery: Bonded Child Labor in India*. Available: <http://www.hrw.org/reports/1996/India3.htm>.

¹²⁷ ADB. 2002. *Combating Trafficking of Women and Children in South Asia (RETA 5948) India Country Report*.

those who have been trafficked, and to decrease the vulnerability of women and children to trafficking. Possible actions, many of which parallel those suggested in the previous section on Bangladesh, include:

- Review of the ITPA (including proposed amendments), *Penal Code*, and other relevant laws to identify reforms or new legislation needed to bring the laws into conformity with the *SAARC Trafficking Convention*, the *UN Convention Against Transnational Organized Crime* and related *Trafficking Protocol* (building on the proposed addition to the ITPA of the definition of trafficking in the *Trafficking Protocol*);
- Monitoring of complaints, arrests, and prosecutions of trafficking and related offenses under the ITPA, *State Police Acts*, and other laws to identify patterns and possible biases in the handling of these cases by law-enforcement officials and judges;
- Strengthening of interstate coordination in enforcement of the ITPA against traffickers, including information sharing, consistent procedures for the safe and voluntary return of persons trafficked across state borders, and provision of integrated support services to survivors of trafficking;
- Consideration of NGO and other proposals to make court procedures more gender-sensitive and child-friendly;
- Consideration by national and state agencies of NGO proposals relating to brothel raids, treatment of the children of commercial sex workers, and safe custody arrangements for survivors of trafficking;
- Collaboration among national and state government agencies and experienced NGOs to develop mechanisms for prompt, safe, and voluntary return of persons trafficked from other countries, and for extradition of suspected traffickers, for further discussion with counterparts from Bangladesh, Nepal, and other source countries;
- Review of training, compensation, and performance evaluation systems in law-enforcement agencies to identify ways to curb corruption and abuse of power by police and border officials;
- Continued effort to improve enforcement of labor laws, to extend labor protections to the informal sector, and to encourage adoption of voluntary codes of conduct by private-sector associations and firms; and
- Establishment and enforcement of workable systems for registering births and marriages.

4.7 Nepal

4.7.1 Legal Framework to Combat Trafficking

Although Nepal is not a party to the 1949 *Trafficking Convention*, it has made international commitments to address trafficking in persons by acceding to both the 1926 and 1956 *Slavery Conventions*, CEDAW and the CRC, and participating in several recent international conferences and UN General Assembly special sessions on women, children, and human rights. Article 20(1) of the *Constitution of Nepal* directly supports these commitments by establishing a fundamental right to be free from exploitation, including traffic in human beings, slavery, serfdom, and forced labor. Article 20(2) also protects minors from working in hazardous settings such as factories or mines. Other relevant rights confirmed in the Constitution include rights to equality before law and equal protection (Article 11[1]); freedom from discrimination on the basis of religion, race, sex, caste, or ideology (Article 11[2&3]); personal liberty (Article 12); and rights within the criminal justice system such as freedom from torture and cruel or degrading treatment (Article 14). A number of directive principles and policies set out in the Constitution are also relevant, including policies to raise the standard of living of citizens, to increase labor force participation, to make special provision for the health, education and employment of women, and to take necessary steps to protect children from exploitation (Article 26).¹²⁸ Nepal's commitment to combat human trafficking is also reflected in various national action plans, in particular, the National Policy, Action Plan and Institutional Mechanism to Combat Against Trafficking in Women and Children for Commercial Sexual Exploitation (discussed further in the next section).

The *Muluki Ain (Code of Law)* of 1964 provided the original basis for prosecuting human traffickers. It prohibits the taking of persons out of the country, by fraud or incitement, for the purpose of selling them, and imposes penalties of 10–20 years. The Code also prohibits slavery and bonded labor, and imposes criminal penalties for enticing minors away from their legal guardians, rape, assault, and other forms of abuse. To address the increasing trend of trafficking, particularly of young women and girls to India, the Code was supplemented in 1986 by the *Human Trafficking (Control) Act* (the 1986 Act), which defines human trafficking to include (i) selling a person for any purpose; (ii) taking a person abroad

¹²⁸ *Constitution of the Kingdom of Nepal 2047 (1990)*, translation originally published in *Himalyan Research Bulletin* XI (1-3) (1991). Available: <http://asnic.utexas.edu/asnic/countries/nepalconstitution.html>.

with the intention of selling him or her; (iii) having a woman engage in prostitution by persuasion, enticement, deception, fraud, or pressure, or encouraging anyone to engage in such acts; and (iv) attempting, or assisting or encouraging anyone, to commit such acts. Penalties imposed under the act range from five years (for attempting or assisting in an offense) and 5-10 years (for taking a person abroad for sale), to 10-15 years (for enticing a woman into prostitution) and 10-20 years (for selling a person). The act also establishes extraterritorial jurisdiction, to reach offenses that are committed outside Nepal. A bill for a new Traffic in Human Beings (Control) Act passed the lower house of the Parliament earlier this year, and is expected to be considered by the upper house later in the year. (The draft bill is discussed further in the next section.)

Other laws relevant to trafficking include the *Labour Act of 1992*, which establishes general conditions of work, and has been supplemented by new legislation to raise minimum wages and prohibit bonded labor. The *Children's Act of 1992* prohibited the employment of children below 14 in manufacturing industries, and regulated employment of children between 14 and 18 years, as well as prohibiting parents from selling their children and prohibiting the use of children in pornography and other "immoral acts." Both the *Labour Act* and the *Children's Act* have been superseded in part by the *Child Labour (Prohibition and Regularisation) Act* passed in 2000, which expands the list of hazardous industries in which children (under 16 years) are banned from working, and imposes harsher penalties for violations. Other laws that are relevant to cross-border trafficking in persons include the *1950 Treaty of Peace and Friendship* between Nepal and India, which effectively creates an open border between the two countries, and the *Foreign Employment Act of 1985*. Of particular relevance here, Section 12 of this Act has been amended to prohibit the foreign employment of both minors and women without the permission of both the government and the minor's or woman's "guardian." This and other government directives limiting women's and children's migration are discussed further below.

4.7.2 Enforcement of Laws Against Trafficking

As discussed in the Nepal Country Report for this RETA,¹²⁹ there have been historical movements of kidnapped and bonded laborers from certain areas of rural Nepal to the cities and neighboring countries, as

¹²⁹ ADB. 2002. *Combating Trafficking of Women and Children in South Asia (RETA 5948): Nepal Country Report*.

well as the supply of young women to palaces and houses of the ruling class to work as servants and entertainers. These patterns have evolved and expanded into widespread trafficking, particularly of women and girls, for bonded labor in factories, domestic work, and sex work, both within Nepal and to other countries, particularly India. With regard to trafficking for forced labor and child labor, the Government of Nepal recently emphasized its commitment to address these problems by ratifying the ILO conventions on forced labor (No. 29) and the worst forms of child labor (No. 182) in 2000 and enacting new legislation to implement these commitments, including the release and resettlement of the *Kamaiyas*, who are bonded agricultural laborers.¹³⁰ However, it is recognized that the Department of Labor, which is principally responsible for implementing these conventions and laws, has limited resources and capacity. Moreover, its regulatory powers extend primarily to formal sector industries and workplaces, with little impact on the much larger informal sector.

With regard to trafficking for sexual exploitation, the Government of Nepal has become increasingly concerned, particularly about the trafficking of adolescent and young girls to India, where many of them end up in brothels. In 1998 the Government therefore began work on a National Policy, Action Plan and Institutional Mechanism to Combat Against Trafficking in Women and Children for Commercial Sexual Exploitation. The National Action Plan is broad-based, and includes proposed activities in the areas of (i) policy, research, and institutional development; (ii) legislation and enforcement; (iii) awareness raising, advocacy, networking, and social mobilization; (iv) health and education; (v) income and employment generation; and (vi) rescue and reintegration. The UN Special Rapporteur on Violence Against Women commended the Action Plan as both comprehensive and well thought out, although she noted that more attention could be paid to the prosecution and punishment of traffickers.¹³¹

The legislation and enforcement program under the National Action Plan includes several initiatives:

- Development of a comprehensive legal/administrative handbook or reference manual;
- Legal awareness programs in every sector of society;

¹³⁰ United States Department of State. 2002b. Country Reports on Human Rights Practices 2001: Nepal, released 4 March 2002. Available: <http://www.state.gov>.

¹³¹ Coomaraswamy, Radhika. 2001. *op. cit.*, p. 24.

- Social justice education and awareness programs;
- Review of current legislation and recommendations for improving its effectiveness;
- Establishment of separate cells within law-enforcement agencies to deal with trafficking and sexual exploitation;
- Legal training programs;
- Development of law information systems;
- Preparation of a document on legal provisions for compensating and rehabilitating victims;
- Development of strategies for making law enforcement free of influence;
- Schemes for the functional decentralization of authority to local governments to protect citizens' rights; and
- Development of mechanisms for bilateral, regional, and international coordination and cooperation to address trafficking and sexual exploitation.

The Government of Nepal is in the process of implementing a number of initiatives from the National Action Plan to improve enforcement of laws against trafficking. For example, a special court was established in Kathmandu to handle trafficking and certain other cases. However, this proved to be counterproductive, since it is extremely expensive and burdensome for prosecutors to bring evidence and witnesses to Kathmandu from other parts of the country. As a consequence, it appears that many trafficking cases are being registered under the *Code of Law* rather than the *1986 Act*.¹³² Steps are now being taken to increase the number and dispersion of special courts for trafficking cases. Another innovation has been the establishment of women's police cells in several districts to encourage more women to report crimes, particularly crimes against them or their children. While this has resulted in increased reporting of cases of violence against women, it has not yet led to a corresponding increase in reported cases of trafficking.¹³³ A handbook on trafficking is also being developed for use by law-enforcement officers, prosecutors, and judges.

¹³² Thapa, Govind Prasad. 2002. Law Enforcement Against Trafficking in South Asia: Strategies for Strengthening Law Enforcement. Paper presented at South Asian Seminar on Using Legal Instruments to Combat Trafficking in Women and Children, sponsored by ESCAP, Kathmandu, 17-19 April 2002.

¹³³ Pradhan-Malla, Sapana. 2002. Strategies for Enhancing Criminal Justice to Combat Trafficking in Women and Children. Paper presented at South Asian Seminar on Using Legal Instruments to Combat Trafficking in Women and Children, sponsored by ESCAP, Kathmandu, 17-19 April 2002.

A number of NGOs such as CeLRRD and WOREC are also running promising programs in communities on awareness of antitrafficking laws and legal empowerment, training of community paralegals, and safe migration. Some NGOs such as Maiti Nepal are also collaborating with border police to monitor official transit points on the India-Nepal border for possible traffickers. However, with a long, open border, it is recognized that traffickers can easily cross at other points or during nonpeak hours when police and NGO surveillance is low. As mentioned in the previous section on India, law enforcement officials from Nepal and bordering states of India have also started to meet more regularly, and to include antitrafficking strategies in the dialogue.

Law enforcement officials are extremely candid about the factors underlying weak enforcement of Nepal's antitrafficking laws, and their analysis is consistent with the observations of lawyers and women's NGOs in Nepal who are working on trafficking issues. In general, one police official characterizes Nepal's legal system as "more criminal-centric than victim-supportive," and notes that the low status of women and corruption and inefficiency of investigating officials compound the problem in trafficking cases.¹³⁴ A number of factors are cited to explain the low reporting of trafficking cases by victims and their families, including intimidation or bribes by traffickers, complicity of family members, mistrust or lack of confidence in investigating officials, lack of information on the true identities of the traffickers, lack of protection, and social stigma.¹³⁵ The procedural requirements for filing a complaint under the 1986 Act are also extensive, and particularly burdensome for victims, whose complaints must be authenticated by a district court within 24 hours. Even where a complaint is filed, victims may be threatened or bribed to change their stories, and it appears that a large number of charges are withdrawn by government officials without even notifying the victims.¹³⁶ Because of limited police resources and lack of motivation, trafficking cases can take years to investigate, or may never be followed up. Once a case is prosecuted, it can take a long time to complete because of court backlog and frequent postponements. The court proceedings themselves can be particularly unpleasant for women victims, who are required to testify in open court in the presence of their traffickers and often unsympathetic court officials. A recent analysis of judgments in trafficking

¹³⁴ Thapa, Govind Prasad. 2002. *op.cit.*, p. 7.

¹³⁵ Pradhan-Malla, Sapana. 2002. *op.cit.*

¹³⁶ CeLRRD. 2000. *Condemned to Exploitation: Impact of Corruption in Criminal Justice System on Women*. Kathmandu.

cases reported in 1988-2000 also found that, of the cases that survived to conclusion, 77% resulted in convictions, but only 59% were affirmed by the Supreme Court. Moreover, over 60% of sentences were for 10 years or less, although the *1986 Law* provides for penalties of up to 20 years for human trafficking.¹³⁷

In light of these problems in reporting, investigating, and prosecuting cases of human trafficking, a number of proposals have been put forward in recent years to amend or replace the *1986 Act*, including proposals from CeLRRD and from the police. Based on these and other proposals, the Ministry of Women and Children and Social Welfare (MWCSW) prepared a draft bill, a version of which was passed by the lower house of the Parliament earlier this year as the *Traffic in Human Beings (Control) Bill*. It is expected to be considered by the upper house later in the year. Several provisions in the Ministry's bill respond to criticisms of the *1986 Law* and its enforcement. The improvements include provisions for free legal aid to victims, *in camera* legal proceedings to protect victims, and granting of 50% of all collected fines to the victim. However, other provisions of the bill have raised concerns with some NGOs working in Nepal on trafficking issues, and with the UN Special Rapporteur on Violence Against Women.

In particular, the Ministry's bill significantly expands the range of offenses beyond those in the *1986 Act*. "Traffic in human beings" is defined to include, in addition to the offenses listed in the *1986 Act*, engaging in or instigating others to engage in prostitution and certain other offenses. The bill also provides criminal penalties for the running of brothels; use of any premises or vehicle in connection with the traffic in human beings (as broadly defined in the bill); and production, sale or supply of "vulgar pictures, publications or other materials." The bill also includes broad authorization to conduct searches and seizures without a warrant, and shifts the burden of proof to the defendant for some offences. Although presented as an antitrafficking initiative, the proposed legislation also contains anti-prostitution and anti-pornography provisions. By criminalizing not only the exploitation of prostitution but prostitution itself, the bill goes farther than even existing laws in Bangladesh and India. When coupled with the broad police powers provided in the bill, there is a risk that the legislation could be used to harass sex workers—including women and children who have been trafficked into this work—rather than pursue traffickers. This is especially problematic for women

¹³⁷ Pradhan-Malla, Sapana. 2002. op. cit.

and girls in some traditional communities of Nepal who are socialized or forced into prostitution as a consequence of religious practices or caste exclusion. It has also been pointed out that women and girls who have been trafficked into prostitution may be even more reluctant to file a complaint against their traffickers, or to cooperate in an investigation, for fear of being charged with prostitution under the bill.¹³⁸ The pornography provision in the bill has also been criticized as unconstitutionally vague, and the UN Special Rapporteur on Violence Against Women has suggested that the provisions shifting the burden of proof to the defendant for some offenses would violate the *International Covenant on Civil and Political Rights* to which Nepal is a party.¹³⁹

The volume of trafficking in persons from Nepal to India raises a number of additional enforcement issues. There is no formal mechanism in place to coordinate exchanges of information about trafficked persons, or to facilitate their release from custody (for example, where they have been “rescued” from an Indian brothel and placed in a remand home in India) and return to Nepal, if that is their preference. Under the *1950 Treaty of Peace and Friendship* with India, citizens of Nepal would ordinarily have the right to move to and settle in India. However, in the case of women from Nepal who have been “rescued” from Indian brothels, the practice would appear to be to detain the women in custodial homes and return them eventually to Nepal. As in the case of women trafficked to India from Bangladesh, NGOs such as Maiti Nepal have been coordinating with NGOs in India to facilitate the release and return of women to Nepal. Both government officials and NGOs in Nepal see a need for more formal arrangements, which could be developed within the framework of the new *SAARC Trafficking Convention*.

4.7.3 Other Relevant Laws and Policies

The Government of Nepal has explicitly linked trafficking, especially of women and girls, with women’s and girls’ poor socioeconomic status, which is reinforced by laws and practices that discriminate against women. Therefore, Nepal’s *National Policy to Combat Against Trafficking of Women and Children for Commercial Sexual Exploitation* aims, among other things, to improve women’s socioeconomic status by removing

¹³⁸ Sanghera, Jyoti and Ratna Kapur. 2000. *An Assessment of Laws and Policies for the Prevention and Control of Trafficking in Nepal*. Kathmandu: The Asia Foundation and New Delhi: Population Council.

¹³⁹ Coomaraswamy, Radhika. 2001. op. cit., p. 14.

laws that discriminate against women. In making its latest report to the CEDAW Committee on implementation of CEDAW, the Government also acknowledged that despite constitutional guarantees of equality, women in Nepal face both *de jure* and *de facto* discrimination. For example, the *Code of Law* restricts women from independent use of their property and inheritance of parental property, and a number of traditional practices that discriminate against women continue. These include child marriage, dowry, polygamy, *deuki*¹⁴⁰ and *badi*.¹⁴¹ Inequalities between men and women are perpetuated by poverty, illiteracy, traditional norms, and stereotypes.¹⁴² As discussed in the previous sections on Bangladesh and India, traditional practices such as child marriage and dowry encourage trafficking. Poor parents who cannot afford to pay dowry for their daughter are often persuaded to marry the daughter off at an early age to a foreigner who does not demand a dowry. This often results in young women being sold to brothels or factory owners. Lack of effective systems for registering births and marriages makes it difficult to prosecute traffickers in these circumstances. Polygamy can indirectly contribute to trafficking where a first wife is abandoned or abused by her husband or does not get along with the other wives, and moves out of the marital home to start a new life. In these circumstances, a trafficker may take advantage, by offering the prospect of a good job in another city or country. Traditional practices and designations such as *deuki* and *badi* have clear links to trafficking, since they initiate young girls into sex work and deprive them of other opportunities; these girls are then sought after by traffickers as a “reliable supply.”

Formal and informal restrictions on women’s access to land and other assets, and to higher education and technical training, severely constrain women’s economic opportunities. Increasing numbers of women have been entering the manufacturing sector out of economic necessity, but they are concentrated in low-skilled, repetitive jobs with little opportunity for promotion.¹⁴³ As in Bangladesh and India, women and children enjoy a number of “formal” labor rights, reflected in the *Labour Act* and laws on child labor. However, surveys indicate that women

¹⁴⁰ *Deuki* is a tradition of dedicating girls to a god or goddess; the girls effectively become “temple prostitutes” (CEDAW Committee 1999, para. 153).

¹⁴¹ *Badi* refers to an “untouchable” Hindu caste traditionally employed as entertainers. As a result of caste exclusion and lack of access to education and other employment, *badi* women and girls are regularly drawn into commercial sex work (Nepal Country Report).

¹⁴² CEDAW. 1999. *Report on the Twentieth Session (19 January–5 February 1999) and Twenty-first Session (7–25 June 1999) of the CEDAW Committee*.

¹⁴³ ADB. 1999. *Country Briefing Paper: Women in Nepal*. Manila. p.31.

are often cheated of their wages by employers, even in the formal sector.¹⁴⁴ In the informal sector, they are likely to work in even more precarious circumstances. Child laborers are in even more tenuous circumstances. In all of these cases, women and children can be easy targets for traffickers who promise them jobs, marriage, and other attractive benefits.

As in Bangladesh and India, poor women are increasingly compelled to migrate for work. However, as in Bangladesh, the Government of Nepal has taken steps to restrict women's migration. The *Foreign Employment Act of 1985*, which licenses and regulates recruiting agencies and other aspects of the formal migration process, was amended in 1998 to bar women and minors from migrating to other countries for work unless they have permission from both the Government and their "guardians." In the case of a woman, her guardian would be her father or mother (if she is unmarried) or else her husband (if she is married). A Foreign Employment Order and Passport Order place additional constraints on women's crossborder movements.¹⁴⁵ These measures have been justified in order to protect women of Nepal from harassment and abuse by overseas employers. Ironically, however, these restrictions lead women to migrate illegally, which brings them into contact with smugglers and traffickers. The Supreme Court recently quashed a petition challenging the constitutionality of these restrictions.¹⁴⁶ These travel restrictions are also closely linked to broader issues of identity for women of Nepal. For example, under the *Citizenship Act*, the father is the sole source of nationality for any child. Similarly, a woman establishes her identity solely through her parents or husband.¹⁴⁷ This constrains women's movements and activities within the country, which can be especially problematic for women and girls who are trying to escape abusive home environments or marriages. To establish their identities—for example, to open a bank account or apply for a formal sector job—they might have to rely on the very persons they were seeking to escape. Similarly, if they wanted to leave the country for work, the *Foreign Employment Act* would require them to obtain permission from these same "guardians."

Through the advocacy of women lawyers and civil society groups, legal reforms are gradually being introduced to improve women's status and protect their rights. These include amendments to the *Code of Law*

¹⁴⁴ Ibid., p. 35-36.

¹⁴⁵ Sanghera, Jyoti and Ratna Kapur. 2000. *An Assessment of Laws and Policies for the Prevention and Control of Trafficking in Nepal*. Kathmandu: The Asia Foundation and New Delhi: Population Council.

¹⁴⁶ Pradhan-Malla, Sapana. 2002. op. cit.

¹⁴⁷ Sangroula, Yubaraj. 2001. *Trafficking of Girls and Women in Nepal: Building a Community Surveillance System for Prevention*. Kathmandu: Kathmandu School of Law.

relating to women's property rights and a bill to criminalize and punish domestic violence, both of which were passed by the lower house of the Parliament earlier this year. By improving women's economic and personal security, these legislative changes address some of the factors that make women and girls particularly vulnerable to trafficking.

4.7.4 Findings

Both government officials and NGOs have identified various measures that could be taken to improve the enforcement of laws against traffickers, to avoid the mistreatment of trafficked persons, and to reduce the vulnerabilities of women and children to trafficking. Possible actions, many of which are consistent with suggestions made in the previous sections on Bangladesh and India, include:

- Review of the *1986 Act, Code of Law*, proposed bill on trafficking and other relevant laws to identify reforms or new legislation needed to bring the laws into conformity with the *SAARC Trafficking Convention*, the *UN Convention Against Transnational Organized Crime* and related *Trafficking Protocol* (including in particular a comparison of the definitions of trafficking);
- Increase in the number and dispersion of special courts to handle trafficking cases;
- Monitoring of complaints, arrests, and prosecutions of trafficking and related offences under the *1986 Act, Code of Law* and other laws to identify patterns and possible biases in the handling of trafficking cases by law enforcement officials and judges;
- Consideration of NGO and other proposals to simplify the procedures for filing complaints against traffickers, and to make court procedures more gender-sensitive and child-friendly;
- Collaboration between relevant government ministries and NGOs experienced in repatriating trafficked persons to develop mechanisms for prompt, safe, and voluntary return of trafficked persons, and for extradition of suspected traffickers, for further discussion with counterparts from India and other destination countries;
- Review of provisions in the *Foreign Employment Act* and related orders requiring special approvals for women's migration, and consideration of alternative ways to protect women migrants from abuse in other countries;

- Review of training, compensation, and performance evaluation systems in law-enforcement agencies to identify ways to curb corruption and abuse of power by police and border officials;
- Continued effort to improve enforcement of labor laws, to extend labor protections to the informal sector, and to encourage adoption of voluntary codes of conduct by private-sector associations and firms; and
- Establishment and enforcement of workable systems for registering births and marriages.

CHAPTER 5

APPROACHES TO ADDRESSING TRAFFICKING

5.1 Stakeholders

A wide range of stakeholders are involved in programs and activities to address trafficking concerns in Bangladesh, India, and Nepal, including civil society organizations, government departments (at national level and, in the case of India, at state level), international nongovernment organizations (INGOs), and donors implementing and funding programming to combat trafficking.

In order to improve collaboration and cooperation between stakeholders and to ensure that there is no overlapping or replication of programming, several attempts have been made in Bangladesh and Nepal to identify who is doing what and where. For example, in **Nepal**, MWCSW in 1998 published a *Directory of Organizations Working Against Trafficking* based on requests for information sent to as wide a group as possible. The National Network Against Girl Trafficking (NNAGT) prepared a map that identified the districts where each NGO was working in 1999. The Institute for Integral Development Studies has been preparing an updated list that will not only identify NGOs working from the Kathmandu Valley but also smaller community-based organizations (CBOs) in more remote areas. In **Bangladesh**, Action Against Trafficking and Sexual Exploitation of Children (ATSEC) has sought to maintain a central list of member agencies and (using additional information from other networks) to provide an informal registry of stakeholders across the country.

India, as a much larger country, with a three-tiered system of government (national, state, and local levels) has a vast range of stakeholders from government and civil society involved in combating trafficking, and no formal process is in place to track the whole range. The national government focal point remains in close contact with state-level focal points, and meets some on a regular basis. Several networks of NGOs exist, some of which also link with networks in other South

Asian countries. However, it remains challenging for experiences to be exchanged and collaborative relationships to be maintained across such a large and diverse country.

5.2 Key Government Stakeholders

All three governments now have NPAs (and in India, several at the state level) in place and made recent commitments to implement the SAARC Trafficking Convention. As addressing trafficking involves several different ministries, there are increasing efforts to work more collaboratively across government structures. NPAs have stressed this aspect of combating trafficking.

5.2.1 Bangladesh

- **Ministry of Women and Children Affairs (MWCA):** The national focal point for addressing trafficking of women and children in Bangladesh is MWCA, but several other ministries share mandates associated with addressing trafficking concerns. Most current activities are being undertaken under the auspices of a 3-year pilot project, Child Development: Coordinated Program to Combat Child Trafficking (CPCCT) supported by NORAD. The project has a Steering Committee (under the chair of the MWCA Secretary) and has established a National Task Force on Trafficking chaired by the Minister of Home Affairs. The Task Force is mandated to review actions undertaken by the project including rescue of trafficked children and punishment of child traffickers. District and Upazila Task Forces are being set up to increase the awareness of law enforcement agencies related to antitrafficking efforts and to implement decisions taken by the Steering Committee. NGOs are also involved in the implementation of the project, particularly rescue, repatriation, reintegration, and creating social awareness.
- **Ministry of Home Affairs:** A special antichild trafficking cell has been established in the Ministry of Home Affairs. Two other cells, one in Bangladesh Defense Rifles and the other one in Police (CID) have been formed under the supervision of Ministry of Home Affairs. The functions of the cells are to identify those

involved in trafficking, arrest them, and promptly rescue any trafficked persons. Current and planned initiatives to train the police, magistrates, and judges on child rights are expected to improve the enforcement of existing legislation. Initiatives will provide orientation to government and NGO workers on the consequences of trafficking, so that they can create awareness among the communities where they work. Expected outcomes include dissemination of information about trafficking to law enforcement officials and increased efforts to take strict action against law enforcement officials themselves involved in trafficking.¹⁴⁸ In recent years, the police have been more active in apprehending cases of border as well as internal trafficking, and have arrested some traffickers.

- **Ministry of Social Welfare:** The Department of Social Services, under the Ministry of Social Welfare, has been implementing two projects with target groups highly vulnerable to trafficking: children of street-based sex workers and street children generally. However, these projects only target vulnerable street children, not women or other vulnerable children living under difficult circumstances (e.g., in rural areas).
- **Ministry of Expatriate Welfare and Overseas Employment:** This Ministry was established in 2002 with the mandate to promote orderly migration and protect the interest of migrant workers in their country of origin and country of destination. The Government, with technical assistance from IOM, is developing a policy and an NPA on Migration Management, including implementation of the *UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* 1990 (after it comes into force). Many stakeholders in Bangladesh argue that improved migration management and the dissemination of safe migration messages will assist considerably in the prevention of trafficking.

As a support to the Government in preparation for these policy-level initiatives, IOM commissioned several studies in relation to migration process, use of remittances, migration management system, and situation of migrant workers and their families. The Bangladesh Institute of Development Studies and the Refugee Migratory Movement and Research Unit of Dhaka

¹⁴⁸ Interview with MWCA, 2000.

University helped IOM to conduct these studies. A consultation will be held under the leadership of the Ministry for Expatriate Welfare and Overseas Employment. A project with IOM has also recently been approved to provide institutional support to this new ministry.

5.2.2 India

(a) Central Government

- **Department of Women and Child Development:** The national focal point for combating trafficking in women and children in India at the national level is DWCD under the Ministry of Human Resource Development. DWCD has counterpart focal points in each state government. As a result of Supreme Court directives of 1990, the Government of India constituted a Central Advisory Committee on Child Prostitution in 1994 (composed of government and nongovernmental agencies) to examine policy and program interventions. A desk was set up in DWCD to implement the recommendations of the central advisory committee. In 1997, under a directive of the Supreme Court, the Committee on Prostitution, Child Prostitution, and Children of Prostitutes was established, headed by the secretary of DWCD. This committee looks into the problems of prostitution and trafficking of women and children in order to develop suitable programs.

DWCD has also been mandated to implement an NPA to suppress trafficking in the country that incorporates the findings from the report of the Central Advisory Committee on Child Prostitution, the recommendations of the National Commission for Women, the directions of the Supreme Court of India, and the experiences of various NGOs working in the area. The UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, has commended India's NPA, which she notes has very interesting and included innovative ideas. Government and NGO representatives also agree that this NPA is both comprehensive and innovative. However, there remain constraints to its implementation, which include lack of resources and inadequate accurate data on which to base policy formulation and advocacy to combat trafficking across other government departments.

DWCD is working toward synergizing the multiple but isolated initiatives of international agencies to combat trafficking by collecting data on the spheres of activity and interest of UN and bilateral agencies. Joint consultation with these agencies in the near future to decide a blueprint for action would ensure greater focus on field projects for prevention, rescue and rehabilitation, and consolidation of efforts. DWCD and the UNICEF Country Office are organizing regional workshops on prevention of trafficking of women and children to review the situation of trafficking and sexual abuse in women and children in different regions and develop a plan of action. At the regional level, India has pledged to coordinate (and take effective measures for) the implementation of the SAARC Convention on Combating the Crime of Trafficking in Women and Children for Prostitution, which was ratified by the SAARC countries at the Eleventh SAARC Summit held at Kathmandu in January 2002. India also ratified (in whole or in part) several other international instruments to address this problem.

- **Ministry of Home Affairs (C.S. Division):** The Ministry has an internal focal point for combating trafficking activities. It is felt that an agency having all-India jurisdiction would be in a position to overcome interstate jurisdiction delays that hinder effective enforcement of the ITPA across the whole country. A proposal is currently under discussion with the state governments for setting up a nodal investigating agency under the aegis of this Ministry.

The state governments have women's cells at police headquarters and women in the police force. Efforts are being undertaken for sensitization on gender issues, under the overall coordination of the division dealing with the issue in the Ministry.

- **National Human Rights Commission (NHRC):** NHRC is a statutory body that performs the functions assigned to it under the Protection of the Human Rights Act. The issue of child prostitution has been a major concern of the Commission; it has been working with DWCD, the National Commission for Women, and UNICEF. In order to better coordinate efforts, NHRC constituted a core group on child prostitution in 1998. At the request of United Nations High Commissioner for Refugees, a focal point was set up in NHRC in 2001 to address the human rights of women, including matters relating to trafficking. Research on trafficking in women and children in India is also underway with support from UNIFEM.

- **National Commission for Women (NCW):** NCW's mandate is to safeguard the rights and interests of women by running legal awareness programs, looking into complaints regarding the violation of women's rights, examining the non-implementation of laws and non-compliance with policy guidelines, providing relief to women by taking up their concerns with the appropriate authorities, conducting research, undertaking investigations, etc. NCW has the powers of a civil court when investigating any case provided for by the NCW Act 1990. Combating the trafficking of women is one of its main areas of priority.
- **National AIDS Control Organization (NACO):** The National AIDS Control Program was launched in 1987 and the first National AIDS Control Project in 1992. The second phase of the National Project has begun for the period 1999-2004 (with a total funding of approximately US\$331 million). The emphasis is on a comprehensive, multisectoral approach. The key components are targeted interventions with vulnerable (CSWs, street children, migrant laborers, etc.) and general populations, care and support for people living with HIV/AIDS, voluntary testing and counseling, hospital infection control, and STD programming.

Interestingly, NACO's state-level mechanisms include the state AIDS control societies that are run by NGOs/technical professionals. One such state-level mechanism, Aids Prevention and Control (APAC) in Tamilnadu, run by voluntary health services (VHS), has an intervention called Women in Prostitution. Twelve NGOs working in community-based mobilization, self-help groups (SHGs) and microfinance, advocacy, and accessing government schemes are involved with APAC. Yearly surveillance on CSWs is being done by APAC, separate from ethnographic/sociological studies in its baseline surveys. Another example is state management systems (SMS) in Kerala, run by Dalal Consultants. It has three interesting projects for CSWs that show potential for other impacts as these interventions target overlapping high-risk groups vulnerable to trafficking, including construction workers, etc.

The criticism that NACO addresses trafficking of women and children at a superficial level may hold ground at one level, but there is no doubt that it is the single largest mechanism with state-level counterparts that are often registered autonomous civil

society groups separate from government health departments, providing flexibility for programming. It also has a mandate for special interventions for CSWs and other cross referencing through seven other interventions such those as for truckers, street children, and migrant workers.

(b) State Governments

States are affected by trafficking in different ways, either as high-supply areas, transit points, or destination points. The following states have programs or plans of action in place to address a range of issues associated with human trafficking.

Table 11: State Programs to Combat Trafficking in India

State	Example
Tamilnadu	Has the highest registration of crimes against women especially trafficking (women and children) as well as highest level of police intervention in these cases.
Andhra Pradesh	Has a draft policy on rescue and rehabilitation and has been involved with implementation of rescue from Delhi's G.B. Road and rehabilitation ventures in source area villages (e.g., land distribution schemes to 900 Jogins in Nizamabad enabled them to challenge the traditional sexual exploitation of their women and facilitated their social and economic rehabilitation).
Karnataka	The Department of Women and Child Development (DWCD) is mandated to mainstream gender issues in line ministries and is involved in catalyzing rehabilitation of trafficked persons through the Women Development Corporations (for example Devidasis through self-help groups run by NGOs).
Madhya Pradesh	Has a policy for women with criteria for accelerating women's participation in development programming. This is converged with the revisions to the Panchayat Raj system and hence women's increased involvement in microlevel planning decentralized allocations. Some programs have been instigated to assist children of commercial sex workers (CSW) from certain tribes and castes to both prevent ongoing trafficking and reintegrate trafficked persons
Kerala	Poverty reduction approaches to combating trafficking are less relevant as new groups are more vulnerable to trafficking: (a) women left behind by out-migration of male family members to the Gulf or other countries; (b) housemaids exported to the Gulf countries; and (c) coastal area fisher women moving to Gujarat/Maharashtra for prawn processing. A range of programs are in place that link to NGO activities, but targeting poor women might not address these specific emerging vulnerabilities.

Cont'd...Table 11

State	Example
Bihar	The Department of Social Welfare has specifically required ongoing anti-poverty schemes to target women and children of CSWs. The focus of the government is toward rehabilitation. The government is providing free and compulsory education for children of women who have been trafficked, setting up of anganwadi (courtyard) centers in red-light areas, and including trafficked persons' names in the electoral rolls.
West Bengal	The State government and a few NGOs have taken a joint initiative of setting up anganwadi centers under the Integrated Child Development Program in red-light areas. Efforts to reach out to children include setting up of institutional care centers. Other activities include establishing a receiving center for women who are repatriated.
Rajasthan	A project in Narena, Nandlalpura, and Dantri villages in Jaipur District is emerging as a model for prevention of child prostitution in areas where special ethnic groups groom the girl children to become prostitutes. The strategy includes nonformal education for children linked to formal schools and pushing service delivery through the government system (i.e., starting of the Anganwadi Center through DWCD).

5.2.3 Nepal

- **MWCSW:** The focal point for addressing human trafficking issues in the Government is the MWCSW. An NPA to guide the Government's response to the trafficking of women and children in particular was developed and approved in 1998 in consultation with local and international NGOs and multilateral and bilateral donor agencies and was reviewed and revised during 2001 in preparation for reporting on progress at the Second World Congress Against Commercial Sexual Exploitation of Children, held in Yokohama in December 2001. The NPA has six areas of implementation: policies and strategies, enactment of appropriate legislation, raising awareness among the general population, health impacts, education, and rescue and rehabilitation.
- Other ministries and departments are also involved in antitrafficking activities. The **police** have been actively increasing their capacities to combat trafficking through law enforcement. The **Ministry of Law and Justice** has been involved in legislative

reforms, and the **Ministry of Foreign Affairs** is implicated in efforts to improve bilateral and international agreements, especially concerning rescue and repatriation of survivors. The **Ministry of Labor** has been less directly involved, but also sits on the 16-member **National Coordinating Committee** set up under the NPA to encourage crossministerial responses to combat trafficking.

- A task force was established under the NPA to act as the supreme coordinating body responsible for executing the plan and policies in combating trafficking. At the institutional level, the Task Force is designed to acquire political support from the local self-governance level and is also mandated to accumulate support from all stakeholders, including the civil society organizations. However, several factors have mitigated against its effective operation:
 - high rate of turnover among staff within government agencies (increased skills and awareness are lost);
 - lack of resources available for programming, and this situation has worsened with the reallocation of resources within government to address security needs;
 - uneven commitment among members, particularly between national and local-level layers of the committee structures (for example, at local levels, meetings are ad hoc and regularization is hampered by civil unrest);
 - the intended district plans of action have not been formulated;
 - information gaps regarding respective roles and responsibilities;
 - decisions appear to be politically biased; and
 - the frequent transfer of the Women Development Officer, who is the member secretary of the Task Force, causes difficulties in sharing decisions and in implementing the program itself.

However, it is important to recognize the formation of this Task Force as an important step forward to a more coordinated approach to addressing trafficking concerns. It provides a common platform and is a legitimate body that has the capacity to facilitate smoother and more effective implementation of the wide range of programming currently taking place in Nepal.

5.3 NGO Stakeholders and Networks of NGOs

NGOs provide a wide range of services and are highly active in advocating to limit trafficking and resolve some of the bottlenecks in the current programming. These NGOs tend to be specialized in addressing trafficking (with only a few broader-based NGOs mainstreaming these concerns into their ongoing poverty reduction or community mobilization programming). Their activities include awareness-raising (through mass information campaigns, rallies, street theater, workshops, seminars, education and communication materials, peer education in the workplace, education during other social mobilization activities in the village); community empowerment to prevent vulnerability to being trafficked; social mobilization through group formation with capacity building and community support systems for people in difficult circumstances; improvement of livelihood opportunities through income generation, vocational training, microcredit, cooperatives; and safe migration initiatives through information, support, and health assistance for migrants. Other programs focus on rescue and repatriation of trafficked persons, followed by reintegration (either into their original community or other locations).

Networks of NGOs have developed within each country and collaborate on specific issues, particularly concerning advocacy for policy and legislative change. These include **ATSEC** (active in India, Bangladesh, and Nepal), Network Against Commercial Exploitation and Trafficking (**NACSET**) (started in India), South Asia Federation Against Human Trafficking (**SAFAHT**) (supported through the UNIFEM regional project), and **SAARC People's Forum**. The National Network Against Girl Trafficking (**NNAGT**) (in Nepal) and ATSEC (in Bangladesh) have also developed a resource center with reports, data, and other materials available to any stakeholder. There are several constraints on networking effectively including disparate and insular functioning; lack of coordinated activity and duplication of work; ideological divisions; ad hoc programming; limited strategic interventions; and a lack of conceptual clarity, particularly between trafficking and migration. However, the crossborder nature of trafficking requires collaboration among civil society organizations from different countries, and the signing of the SAARC Convention should foster an environment more conducive to networking rather than competition for scarce government and donor resources.

Within each country there are also many organizations working on issues such as gender equality and women's empowerment that have

made contributions to combating trafficking even though they do not identify themselves as undertaking specific anti-trafficking initiatives. Similarly, community-based organizations involved in social mobilization and legal and human rights awareness make contributions to combating trafficking. Many of these organizations are involved in social mobilization as a component of larger poverty reduction programs or infrastructure development, and indirectly make it easier for antitrafficking NGOs to work in the same districts. Any assessment of activities that have contributed to combating trafficking in a specific district or village would have to take into account this whole of range of programming.

As in many areas of development work, there are differing responses to the circumstances trafficked persons find themselves in from organizations working from diverse ideological foundations. For example, some organizations working on rescue and rehabilitation activities consider that CSW of any kind is harmful and at any cost women should be removed and protected from returning to work of this kind. In some cases this has meant they have restricted the movement of rescued trafficked persons within the shelters, and they are treated as children whose opinions and behavior needs to be “changed.” Others take a rights-based approach that recognizes that any adult has the right to choose to be a CSW. This does not mean that these organizations condone the harm that is done to many survivors, or deny that prostitution represents an extreme form of exploitation of women as sexual objects. These different approaches are obviously reflected in the types of programming used for rehabilitation and integration.

5.4 Other Stakeholders

5.4.1 Researchers

Several organizations are combining research with programming (e.g., Cooperative for Assistance and Relief Everywhere [CARE]–Bangladesh, Centre for Women and Children Studies (CWCS), and the ActionAid network). In **India**, government agencies (such as the National Human Rights Commission [NHRC]) and several university departments have ongoing research projects.

NGOs have also sought to fill knowledge gaps, for example **Jaggory** in **India** is looking at the use of trafficked labour (particularly women) in certain industry sectors.

CARE-Bangladesh is currently undertaking an in-depth ethnographic study focusing on a sample of 50 sex workers from both sides of the border. This study is an effort to explore details of lifestyle patterns and the experiences of women who are engaged in sex work. Detailed research is being conducted to analyze individual and family circumstances that contribute to the causes of trafficking. CARE is also documenting case profiles of women and girls affected by trafficking for the purposes of education and advocacy.

5.4.2 International NGOs and Bilateral and Multilateral Donors

Growing numbers of international NGOs and bilateral and multilateral donors are responding to the increased attention given to trafficking issues both within and from outside South Asia. Generally, the scope of programs currently in place is relatively limited (with a few exceptions such as USAID, ILO/IPEC, NORAD in Bangladesh) as most funders are supporting small initiatives and have yet to mainstream trafficking into related activities. However, Oxfam GB and UK Government DFID are examples of exceptions as they integrate trafficking concerns into other programming.

Institutions have been providing both technical and financial support to governments and NGOs to address the problem. These organizations include Redd Barna, Plan International, ActionAid, Asia Foundation, Oxfam, Save the Children Alliance, ILO/IPEC, UNICEF, UNIFEM, USAID, World Bank, IOM, NORAD, CIDA, etc. The programs undertaken by these agencies range from awareness raising, rescue and rehabilitation, and developing training packages on human and child rights to convening workshops for judges, public prosecutors, and lawyers in enforcement of legislation. Key elements include protection and prevention of children at risk, dissemination of information on CRC and CEDAW, and support for government and nongovernment organizations to step up antitrafficking initiatives. These agencies also promote women's rights issues through capacity building programs; production of information, education, and communication (IEC) materials; and support for transit homes for children.

In **Nepal** an Informal International Agency Group is increasing the flow of information between these stakeholders and improving coordination of activities. For example, it has developed a list of activities funded by funding agencies and international NGOs. The Group provides a regular opportunity to discuss issues and inform people of upcoming events and activities. However, similar loosely based networking groups

among funding agencies and international NGOs in other countries in South Asia have not been as successful as in Nepal.

5.4.3 Regional Programs

Several funding agencies are supporting regional programs, including:

- **UNIFEM South Asia Regional Strategy to Combat Trafficking in Women and Children.** UNIFEM is implementing this Strategy (funded by USAID since 2000) through local NGOs in India, Nepal, Bangladesh, and Sri Lanka. Programs include data collection on the magnitude and exact nature of the trafficking problem within and between South Asian countries, support for shelters, repatriation, education and awareness campaigns, vocational training, and health care. UNIFEM is also promoting regional dialogue among governments concerning trafficking of women and children and has recently signed an MOU with the SAARC Secretariat to promote these efforts in several areas.
- **Bangladesh, Nepal, and Sri Lanka – South Asia Sub-Regional Program to Combat the Trafficking of Children for Exploitative Employment.** This ILO program on elimination of the child labor, with funding from the US Department of Labor, seeks to address the trafficking of children for purposes of prostitution, domestic work, bonded labor, sex tourism and entertainment, pornography, begging, criminal activities, marriages, and false adoption. The Program aims to rescue and provide rehabilitative services to 650 children and help prevent an additional 13,000 children from being trafficked. In addition, the Program seeks to enhance the capacity of government and governmental organizations to address this problem and to increase subregional cooperation and joint action on this issue between the SAARC countries.
- **UNDP Regional Initiative: Addressing the Problem of HIV/AIDS and Trafficking.** The UNDP HIV and Development Program for South and Southwest Asia is one of the UN agencies promoting responses and partnering with NGOs and CBOs in pilot projects.

Underlying premises include that:

- minors have to be rescued, rehabilitated, and repatriated with their families;

- older women must have choices in decisions regarding their lives and livelihoods;
- both HIV/AIDS and trafficking are issues that need to be dealt with at the structural level;
- women and girls should be empowered to protect themselves; and
- migration is a livelihood alternative and the right of women to mobility has to be respected.

The common aim of the six pilot projects is to combat trafficking and reduce vulnerability to HIV infection. Most of the projects are also involved in research work, analyzing linkages between trafficking and the increased vulnerability to HIV/AIDS.¹⁴⁹ The UNDP Project on HIV partners in the six pilot projects are Stop Trafficking, Prostitution and Oppression of Children and Women India; SHDS-India; WOREC-Nepal; OPSE-Sri Lanka; Maiti-Nepal; and CARE-Bangladesh.

- **Save the Children Alliance** has undertaken a regional study that supports civil-society organizations in each country to review existing laws and gaps in legislation.
- **ActionAid** does not exclusively focus on the trafficking in children, but deals with the constituency of children as it comes across trafficked persons who are less than 18 years of age. It assists ECPAT and Save the Children worldwide to combat child trafficking by bringing value added to their efforts. In Bangladesh, India, Nepal, and Pakistan detailed Situation Analyses were carried out in 1999. The country programs are now in a position to draw up their own plans of action—in the areas of prevention, mitigation, and rehabilitation. The country programs also identify the importance of understanding internal trafficking, and other sites of trafficking beyond brothels (such as the garment industry, fish-processing industry, and domestic work in Bangladesh).

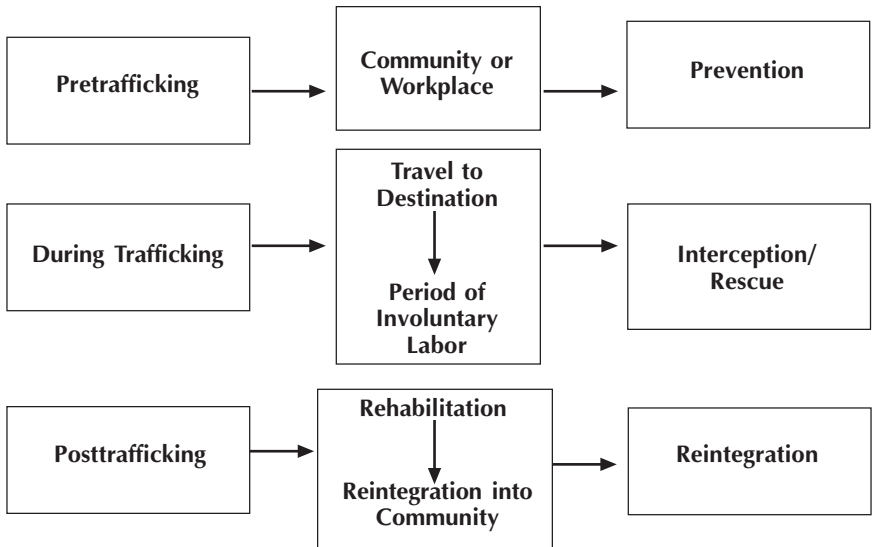
5.5 Antitrafficking Programs

The analysis of programs undertaken by the full range of stakeholders and activists involved in combating trafficking in the RETA country papers

¹⁴⁹ UNDP, October 2001.

is built around the framework in Figure 3. Antitrafficking programs can be roughly categorized into three areas: prevention, interception/rescue, and reintegration.

Figure 3: Trafficking Programming Framework



5.5.1 Prevention Programs

Community-based poverty reduction programming plays an important role in **trafficking prevention**, particularly if those already identified as at risk are included. Increasing the livelihood options for those with few resources (particularly women) is vital to ensure those most vulnerable withstand shocks such as natural disasters, forced resettlement, etc. However, addressing economic issues alone is not sufficient to prevent trafficking. It is also important to strengthen social capital and build social protection and resistance to withstand the temptations offered by traffickers and “easy” income from commercial sexual exploitation. Many women’s thrift and credit groups established under the thousands of poverty reduction programs in **India** not only build resistance but also provide savings to cope with crises, and minimize overheads/risks and transition costs for both microfinance institutions and poor women. Social capital formation is also facilitated by linkages with other institutions, and agencies or networks among themselves. Programs

building on partnerships between civil society and state agencies provide multidimensional approaches to trafficking prevention programs. Finally, factors that lead to social disintegration of families and communities also need to be addressed. Awareness raising, education, and programming to increase the status of women and girls and address other discriminatory traditions can all help build collective efforts to combat trafficking. Awareness-raising programs are aimed at vulnerable groups, parents, teachers, community leaders, employers, lawyers, police, public officials, law enforcement agencies, and the general public on issues of trafficking, gender discrimination, women and child rights, victim's support, and impunity.

Many programs include support for formal schooling or enrolment in special non-formal education classes, as well as vocational training or skill building, microcredit, income-generation programs, etc. Some of the common activities include credit to buy cattle, chicken, or sewing machines, training on sewing/tailoring, and bee keeping, etc. This holistic approach (taken by larger NGOs with greater resources) attempts to address the multiple factors causing trafficking.

For example, efforts to collaborate among NGOs and coordinate activities led NNAGT to prepare a tentative mapping of NGOs working in different districts and disciplines. The number of NGOs and their scope, mandate, and activities dramatically increased and diversified after the mapping was exercise was carried out. "The mapping is an excellent beginning but it does not reflect the representative picture of all stakeholders," says Dr. Madhavi Singh, NNAGT Coordinator.

The following section describes some programs available through government and civil society organizations in Bangladesh, India (particularly focusing on source area programming), and Nepal.

(a-i) Bangladesh – Government Activities

Initially several Dhaka-based NGOs implemented preventative activities (rallies, consultation meetings, village-level meetings, workshops, brochures and posters, roadside dramas, songs, and advertisements through radio and TV, etc.). Gradually they expanded their activities as their understanding of community needs evolved. They started working in the border and trafficking-prone areas through networks of NGOs and grassroots-level organizations. The preventative approach concentrated on raising the awareness of different stakeholders (both government and civil society) about the existence and harms of trafficking of humans and the scope of the problem in Bangladesh. Until the Government had

recognized trafficking as a problem, it was very difficult for NGOs to work on this issue under the umbrella supervision of NGO Affairs Bureau of the Government of Bangladesh.

- **Ministry of Women and Children Affairs.** As noted above, MWCA is implementing one large-scale project, CPCCT, the main objective of which is to conduct motivational activities and to support the efforts of organizations working in the areas of prevention, rescue, repatriation, and reintegration of survivors of trafficking. It should be noted that this government project only focuses on children and does not include women. This tendency to focus on children has been reinforced through the adoption of the NPA to implement commitments made at the Yokohama Conference in December 2001, again to counter the commercial sexual exploitation of children only. There is a great need to undertake a comprehensive antitrafficking program for all trafficked persons: women, children, and men. There are many instances of men being trafficked while migrating either irregularly or legally.

MWCA is also implementing a project titled “Empowerment and Protection of Children and Women” which was started in 2001 with support from UNICEF. The project addresses children in especially difficult circumstances, including street children and trafficked children. The Ministry received support for preparing an assessment of progress on NPA since the Stockholm Declaration for the Yokohama Conference. These activities included the preparation of some best practices as well as the draft NPA, which has since been approved by the Cabinet and is now in the early stages of implementation.

MWCA is implementing 28 other projects with direct links to poverty reduction, gender mainstreaming, microcredit policy, empowerment of women, capacity building, etc. in rural areas. As identified by the joint secretary in her presentation to the RETA Regional Workshop, these projects also contribute to preventing trafficking, and MWCA welcomes ADB’s proposed approach to more explicitly incorporate trafficking concerns into its poverty reduction programs.

- **Ministry of Home Affairs.** As noted above, MHA has established an internal structure to address trafficking concerns. Training has been delivered on a relatively ad hoc basis to build awareness among the Ministry’s mandated staff. IOM recently completed a

1-year pilot project, “Capacity Building of Law Enforcement Officials to Prevent Trafficking of Women and Children,” in 2001 funded by CIDA. For example, one component dealt with improving the investigation and interview skills of officials. Training and building awareness of how best to receive and process trafficked persons is a key as these enforcement officers play vital roles in combating trafficking of women and children.

- **Ministry of Information.** The Ministry of Information (in cooperation with the project CPCCT under MWCA) has produced material for electronic and print media to raise awareness and build resistance to trafficking. Some 20 awareness-raising programs have been developed to be telecast on all the TV channels. Short 5-minute films have also been developed to play in 1,000 cinema halls through the country. In addition, 48 radio programs will be broadcast under the project.

(a-ii) Bangladesh – NGO Activities

The following sections present some activities of leading NGOs. Many hundreds (perhaps thousands) of CBOs are incorporating antitrafficking and prevention messages in their work. Larger NGOs work with these CBOs to develop and disseminate materials. Action Against Trafficking Sexual Exploitation of Children maintains a list of NGOs/CBOs working in this area.

Salma is the fourth among her five sisters. Salma did not go to school. She was a helping hand in the household activities and used to carry food for her father in the field. As she was growing a local [man] targeted her. He convinced her father to send Salma to India. The trafficker assured him that she will be arranged a nice job there. Salma was given a job in a Beedi factory in Maldah district in India. She was assigned to prepare 1,000 pieces of tobacco sticks a day. Her failure ... appropriated ... severe beating. She had to work 15 hours a day and many a times she was not given food. Salma cried in vain and many of her attempts to escape failed. After 3 months she was transferred to another factory but the treatment was the same.

When the Association for Community Development (ACD) started awareness raising programme in the area Salma's father realized that his daughter had been trafficked and they contacted the ACD Area Office to help Salma return to Bangladesh. ACD with the trafficker finally brought Salma back. She is now living at an ACD shelter home.

Source: ACD. 2001. *Annual Report*, page 19.

- **ACD**, based in Rajshahi, is involved in building awareness, community vigilance, and informal contacts and referral systems

to prevent children from being trafficked. ACD stands out from other NGOs for having built a positive working relationship with the police, encouraging them to bring lost and rescued children to the ACD shelter home. ACD has also developed positive relationships in the district with the local elected members of the union parishads and other leading community members. ACD trains peer educators in their groups for adolescent girls, boys, and young men; organizes training, workshops, seminars, rallies, and courtyard meetings; and distributes leaflets, booklets, and posters.

- **BNWLA** is a legal aid organization that has been implementing its antitrafficking projects since 1993. It conducts meetings with community members, social leaders, and law-enforcement agencies to prevent trafficking in children and women; provides support for investigation of specific incidents; and maintains liaison with police stations, jails, courts, and journalists. BNWLA has published booklets, fact sheets, and posters on antitrafficking issues and is updating a database on trafficked persons.
- **Rights Jessore** has been implementing a mass information campaign in the Jessore district (a border community) to mobilize different professionals to combat human trafficking. Recently Rights Jessore organized a 2-day dialogue session between the NGOs of the Bangladesh border area and West Bengal. During these sessions, the need for a bilateral treaty with smoother mechanisms for repatriation was frequently identified. The organization builds the capacity of local government representatives in combating trafficking of women and children, and organizes rallies, meetings, and mikings at the local *hats*.¹⁵⁰
- **CWCS** has been working to raise mass awareness about trafficking since 1997. Currently, the Centre is working in eight northern districts to create awareness through campaigns, workshops, and dialogues with members of the community, professionals, local leaders, law-enforcing agencies, and local administration at the district, upazila, and village levels.
- **Dhaka Ahsania Mission** has a Children and Women Trafficking Prevention program to raise awareness regarding different aspects of trafficking. DAM has produced different types of educational

¹⁵⁰ Marketplaces or bazaars.

materials on the trafficking issue based on community-level consultations.

- **ATSEC**, a network of 15 NGOs, has been implementing prevention projects in partnership with NGOs to raise awareness of trafficking of children among vulnerable populations, particularly rural women and border region communities. ATSEC has also developed a resource center to provide culturally sensitive information about countertrafficking issues and is producing IEC materials for a comprehensive antitrafficking campaign nationwide. This project also seeks to strengthen the capacity of NGOs to build antitrafficking initiatives into their overall programming.
- **Breaking the Silence**, an organization working on the issue of noncommercial sexual abuse of children, has developed groups of adolescent girls (15 volunteers) and boys (10 volunteers) who impart messages about child sexual abuse through a child-to-child approach, informing their classmates and arranging discussions with adults.
- **INCIDIN Bangladesh**, a research and services NGO, has been implementing a project, 'Misplaced Childhood' aimed at providing drop-in center support services in Dhaka City.
- **Karmojibi Kalyan Sangstha**, in Rajbari, had been supporting a primary school outside a Daulotdia brothel for children of sex workers and other local children.

(b-i) India – Government Activities

Certain public expenditure schemes have pro-women allocations, though they are not exclusively targeted to women. For instance, there are several schemes for poverty reduction and employment generation that include women components. Similarly, public provision of drinking water supply and sanitation, fuel, housing, and improved energy resources like biogas are of immense benefit to women.

DWCD provided a recent gender analysis of the 2001/02 and 2002/03 budgets, revealing that:

- The budgetary allocation for women-specific schemes increased Rs3,260 crores¹⁵¹ in 2001/02 to Rs3,358 crores in 2002/03 (representing an increase of 3%).

¹⁵¹ One crore is equivalent to 10,000,000.

- Pro-women schemes have seen enhanced financial support from Rs13,036 crores in 2002/03, an increase over 2001/02 of 23% and specific increases are noted for girls' elementary education. Women and children participation in the Integrated Child Development Services (ICDS) program has increased.

In spite of the significant pronouncements on gender in the Union Budget for the first time in India, coupled with the priority already set in the Ninth Five-Year Plan,¹⁵² by and large this year's budget shows no change from the usual procedure of monitoring input rather than outcome and proliferation of too many programs with too little money. Apart from the women-specific programs (all of which are ongoing), no action has been initiated to identify girl- and women-related provisions in the composite programs and schemes.

ICDS is the largest poverty reduction scheme available from the Government of India that can build upon prevention of trafficking. It has been implemented widely in several states in red-light areas or source areas, and is the principal means of organizing children, adolescents, and mothers from below-poverty line families. Several innovations are tied to the ICDS at the state level, and it is a crucial program for identifying beneficiaries for schemes related to trafficking. The ICDS program is to be universalized by the first year of the Tenth Five-Year Plan. DWCD aims to extend the ICDS to 5,000 administrative blocks from the present 4,388 blocks by the end of the next year. Recommendations have also been made for mobilizing community support and participation in the ICDS program, over and above ensuring availability of quality infrastructure.

The Swarn Jayanthi Swa Rozgar Yojana is another major poverty reduction program in the Government of India (the prologue to the Integrated Rural Development Program (IRDP), Department of Women and Child Rural Agency (DWACRA), and other rural development programs for self-employment) and is a vital scheme for development of trafficking source areas. It provides an opportunity for NGOs/self-help groups/women's groups to support local-level livelihood activities linked to decentralized government structures. For example, in Madhya Pradesh and Kerala states these schemes have been well converged with Panchayati Raj Institution (PRI). Other DWCD programs include the Support to Training and Employment Program (STEP), setting up of training-cum-production centers (supported by NORAD), and the Socio-Economic Program.

¹⁵² This section has been cited from *Gender Budgeting National Institute of Public Finance and Policy*, August 2001.

DWCD (in collaboration with UNICEF) is developing a national media strategy through consultation with NGO stakeholders. The media strategy will cover print and electronic media at the national and regional levels so as to achieve the widest outreach possible for anti-trafficking awareness.

(b-ii) India – NGO Activities

Examples of programming activities carried out by NGOs at source areas include:

- **Samskar**, a rural-based NGO in Andhra Pradesh (Nizamabad) works with the Jogin community. Using an integrated strategy, it has access to land and community mobilization. For example, it has prevented Jogins from dancing at funerals (as traditionally practiced) or being sexually exploited in Nizamabad district. The Jogins are empowered thanks to awareness, literacy, leadership building, and child development programs, as well as rehabilitation, shelter homes, and other sustained community interventions.
- **STHREE** from Anantpur (a drought-prone area in Andhra Pradesh) works on livelihood issues with communities including self-help/housing, SC/ST/caste entitlements, free education, housing, and bonded labor programs.
- **Prajwala** of Hyderabad works with HIV-positive children from the community, runs transitory schools for 800 children of CSWs, and provides skill training.
- **Help** (Ongole), **Rise** (Tirupathi), and **Odanadi** (Karnataka) deliver preventative measures to children (many are children of CSWs or from high-risk communities).
- In Karnataka, the **Mahila Samakya Program** (a government-sponsored program), **Working Women's Forum, India** and **Joint Women's Programme (JWP)** work with Devadasis through strategies such as empowerment, education, livelihood options, and advocacy/consciousness.
- The **STHREE Adhra Kendra** in Pune enhances community participation by organizing and raising awareness, administers women's help centers in three cities of Maharashtra, and runs trauma counseling centers.
- **Prerna** in Maharashtra has been at the forefront of raising

awareness and runs highly acclaimed centers for children in high-risk areas. National/regional campaigns have been undertaken to create awareness of prevention of trafficking within the larger community, as well encouraging the flow of information and advocacy from the grassroots to policymakers (through rallies, IEC materials, etc.).

- In Calcutta **Sanlaap** has organized public-awareness activities and promoted community participation to address the problem of trafficking. Sanlaap's special programs include rehabilitation of cross-border victims, counseling, and drop-in centers.
- The **Sonagachi** project works with CSWs of Calcutta. It has attempted preventative strategies such as establishing self-regulatory boards, taking a stand against child and forced trafficking, and setting up women's collectives (as a beginning in this area).
- The **JWP** started a service center in red-light areas of several metropolis, set up *crèche/balwadi* programs for children of victims, and founded women's clubs or *mahila mandals* that could provide other services. It has established grassroots alliances with NGOs, government functionaries, and other key stakeholders at the village level.
- Programs for sensitizing the police, judiciary, and media have also been taken up by several NGOs (SAK, Pune, JWP Delhi, etc.).

Antitrafficking work in urban areas presently is only carried out by a few NGOs in Mumbai, Delhi, and Calcutta. But source-area prevention and rehabilitation models have been implemented effectively in South India in the high-supply states of Andhra Pradesh, Tamilnadu, and Karnataka. These programs take a proactive, community-based approach, bringing the most vulnerable members of a community to center stage through empowerment strategies (including social mobilization).

A community-based approach is being used to deliver HIV/AIDS programming effectively in the southern states. At present, these programs are more narrowly focused on condom distribution, but it is possible that such programs could be strengthened to mobilize the community from within against trafficking. Illustrations of how these approaches can also be used to address a broader range of trafficking concerns in the context of poverty reduction or road sub-sector projects based on experiences of activities in India are provided in the Appendix.

The effectiveness of prevention programming within poor communities, however, is not clear as there is limited monitoring of activities. Monitoring prevention activities through data collection and situational analysis to analyze trends as a basis for programming is vital. For example, ActionAid in western Orissa noted that approximately one lakh¹⁵³ workers migrate each year to the brick kilns of Hyderabad. The micro study of migration from Bolangir identified several trends including socioeconomic background of migrant families, food security issues, patterns of migration, and situation in destination workplaces. It identified lean season periods when livelihood options are unavailable that lead to migration. It is expected that DFID/ActionAid will undertake a longer-term source area prevention program during those periods so as to stem the phenomenon of distress migration—and hence vulnerability to trafficking.

The work of STHREE in Andhra Pradesh covers 120 kilometers of highway where CSWs are sought out by drivers and transport passengers. Cultural means (such as theater) are used to generate awareness in the community to strengthen the capacity to stem the trafficking of girl-children from the surrounding communities, apprehend traffickers, and obstruct highway prostitution. Thanks to links with law enforcement and community leadership, traffickers know that they will be at risk if they continue to operate in the community.

(c-i) Nepal – Government Activities

- **MWCSW.** In 1998, MWCSW with support from the ILO-IPEC program in Nepal developed a comprehensive, 13-point strategy for the prevention of trafficking. MWCSW has hosted several consultative workshops on trafficking and provided a forum for NGOs, government organizations, CBOs, policymakers, women's groups, international NGOs, and members of civil society. Meanwhile, the Ministry has developed various antitrafficking IEC materials to raise greater awareness among the public. Under the revised NPA, income-generation programming is also linked to the Ministry of Local Development. The Government has established a policy of raising the status of children from marginalized groups guided by a governmental commission (Janajati Parishad) under the Ministry of Local Development. Since 1997, it has been organizing training skills and offering scholarships.

¹⁵³ One lakh is equivalent to 100,000.

The Government has demonstrated its commitment to address child labor issues by ratifying the ILO Convention 182 and 29 with a view to combating the worst form of child labor and two Optional Protocols to the Convention of the Rights of the Child regarding the involvement of children in armed conflict and the sale of children, child prostitution, and child pornography. A special bench for children has been created in all the 75 district courts. Nepal police have also been vigorously involved in the campaign against girl trafficking. In addition to the formation of a national task force, a special unit—a women’s cell—has been established within the police force with the financial support of UNICEF.

(c-ii) Nepal – NGO Activities

The following are some examples of activities currently underway:

- **Alliance Against Trafficking in Women and Children in Nepal** is a coalition of 17 organizations focusing on networking and campaigning, advocacy, and lobbying activities. It is conducting awareness programs and workshops, and orientation programs for the media on trafficking issues. It has also encouraged debate and discussion on the SAARC trafficking convention.
- **Maiti Nepal** also plays a lead role in advocacy and awareness campaigns to highlight the issue of trafficking of children. It has deputed its volunteers for aggressive interception at 14 different crossing points on the Indo-Nepal border, bringing the issue of crossborder trafficking to the public’s attention. Maiti Nepal has established formal partnerships with various organizations in India and other countries for tracing trafficked persons and perpetrators, information sharing, advocacy, and lobbying.
- **Oxfam GB Nepal** has launched a program called “Women in Decision Making” with the theme of political empowerment. The prime objective of the program is to combat violence against women (in which trafficking is a major component), but it includes a component to build confidence and greater bargaining capacity among elected women to address issues such as trafficking. The elected women at the VDC level are encouraged, among other issues, to take leadership in support of those returning from trafficking experiences, or to build community resistance to traffickers operating within their communities. This approach has been adopted rather than stand-alone antitrafficking activities,

and adopts a mainstream approach to build community resistance.¹⁵⁴

- **CeLRRD** conducts research activities on sociolegal issues and extensive paralegal and general legal-awareness programs at the community level. It also lobbies for appropriate and adequate legislation. CeLRRD is expanding and strengthening local surveillance groups and forming a similar national structure in collaboration with Nepal police and other stakeholders.
- **WOREC** is playing an active role in advocacy and awareness campaigns. It is working in 10 districts directly and reaching 500,000 women indirectly. Mass rallies are organized, while books, comics, and posters are distributed for raising antitrafficking awareness in affected communities. WOREC is also taking a lead role in enhancing the campaign for safe migration and ensuring freedom of movement of women and men. It advocates for mandatory predeparture training by employment agencies and the establishment of migration counseling centers in each VDC of Nepal.
- **ABC Nepal** organizes training sessions on women's leadership and skill development along with awareness-raising programs. One of the pioneer organizations in combating trafficking of women, its programs include special education for dropout girls, along with counseling and rehabilitation for rescued girls in prone areas.
- **HimRights and International Institute for Human Rights, Environment and Development (INHURED) International** (supported by Plan International) are working together on a pilot project on trafficking prevention in the districts of Makwanpur, Bara, and Rautahat. They have produced IEC materials and recently conducted an exposure trip for community stakeholders to Mumbai, India to study various aspects of trafficking at the demand side and establish new bilateral partnership for action. The organizations have lobbied for legislative change at the national level and assisted in preparing an alternative draft to the SAARC trafficking convention.
- **South Asia Partnership Nepal** (supported by UNICEF) has worked with Badis children and has prepared a national position paper on commercial sexual exploitation of children for the Yokohama conference.

¹⁵⁴ Interview with Oxfam GB Nepal staff, RETA Team, April 2002.

- **LACC** runs a women's rights help line to provide legal advice and referrals, offers free legal representation and mediation, and hosts training workshops on legal awareness.
- **Shakti Samuha** ("empowered group") is working in carpet factories to raise awareness among women and children through peer education, street theaters, drama, and counseling.
- **Asmita** is working in the field of media monitoring on gender justice with a particular focus on trafficking. It has developed specific guidelines on media monitoring.

A girl from Udayapur district in Nepal, who had left school in grade 4, attended a 6-month village women's leadership program run by an NGO, Navjyoti. She is working with one of the organizations in Kathmandu as a nonformal education facilitator. She said that she is now economically independent and confident and her brother, who is studying for a diploma, is very dependent on her. Since she has received training, a qualification, and work experience, she is sure that she will not be jobless. The job gives her cash, confidence, and respect.

Source: Navjyoti report, case study.

(d) Findings from Prevention Programs

For those women and children compelled to migrate or move from their communities to meet basic needs, **community-based poverty reduction programming** can play an important role in trafficking prevention as migration and promises of better jobs can be resisted if other options are available at home. Traffickers take advantage of the desperation of others. Increasing the livelihood options for those with few resources is vital. Programs seeking to increase incomes for women as well as households as a whole will also help the most vulnerable withstand shocks such as natural disasters and forced resettlement. However, addressing economic issues alone is not sufficient to combat trafficking.

Factors that lead to social marginalization, gender gaps, and family and community disintegration also need to be addressed. **Awareness-raising**, education, and programming to increase the status of women and girls and address other discriminatory traditions help build collective efforts to combat trafficking. Safe migration messages are now being included in awareness messages by some organizations in recognition that many women and adolescent girls wish to migrate anyway, especially if they have been attending school and are aware of other options available

outside their communities for their self-realization. The combination of approaches needs to be incorporated into any prevention programming, while recognizing that some people will always want to move away.

Legal awareness is also important so that those most at risk understand their entitlements to protection from criminal acts, and the community as a whole is aware of the criminal nature of trafficking and supports individuals who seek to take punitive measures against perpetrators. This kind of awareness has changed the culture of impunity within which the traffickers operate in some areas of Nepal. **Law enforcement and community leadership** also play a role within the community to prosecute traffickers, demonstrating that they will be at risk if they continue to operate in their community. Community surveillance has also raised awareness among a broader group of who might be at risk. However, care must be taken not to equate women leaving the village with trafficking. Similarly care must be taken not to abuse the system, so that it does not become a mechanism for controlling women and girls.

The **effectiveness of prevention programming** within communities is not clear, as there is limited monitoring of existing activities. More documentation of monitoring is urgently needed to help assess the relative effectiveness of different kinds of interventions.¹⁵⁵ In some communities, informants claim strongly that following prevention activities trafficking is reduced or eliminated, but traffickers may have simply moved to other communities rather than actually stopped their activities. New trends are also emerging as traffickers increase their activities in urban areas and educated girls are being trafficked through fake marriages or offers for better opportunities. These types of changes need to be tracked and programming adjusted accordingly.

Furthermore, **appropriate indicators** have not been identified even for shorter-term outputs from community development-based programming, let alone those required for longer-term assessment of factors such as community behaviors and attitudes towards traffickers and trafficked persons; or whether reductions in actual incidents of trafficking mean only that traffickers have moved to another area. There is interest from the Population Council to take the lead in encouraging a group of stakeholders in the region to develop indicators and to build monitoring and evaluation capacities among activists and service-delivery organizations.

¹⁵⁵ The Asia Foundation/Population Council/Horizons, Dr. Catrin Evans and Pankaja Bhattarai: A Comparative Analysis of Anti-Trafficking Intervention Approaches in Nepal, December 2000, p. 18.

It is important to promote enabling environments within government to facilitate **interdepartmental and multisectoral cooperation** to mainstream trafficking concerns into poverty reduction programs. ADB operations can be used to promote antitrafficking approaches which reach into sectors and related ministries which have yet to be sensitized to the potential for poverty programming to combat trafficking (e.g., the highways sector, railways).

Prevention activities can be considerably strengthened if the **demand for trafficked labor is reduced**. Labor standards legislation and regulation can be improved, with more effective enforcement encouraged through capacity building with appropriate government agencies. Some HIV/AIDS prevention programming has also limited demand for commercial sex workers as risky behaviors (such as using multiple sex partners) have been discouraged.

The SAARC Trafficking Convention in Article VIII, Clause 7, states:

The State parties to the Convention shall endeavor to focus preventive and development efforts on areas, which are known to be source areas for trafficking.

There are extensive examples and good practices now available in South Asia. However, there is little monitoring of these activities, hence it is difficult to understand what aspects of a particular initiative are effective and why. Mechanisms for exchanging these good practices can also be established through existing NGO networks (such as the UNIFEM South Asia Federation Against Human Trafficking) and among governments and NGOs through the SAARC Trafficking Convention framework.

Some also argue that improved, enlarged, and new legal labor migration channels can substitute for the trafficking of children and women into exploitative situations. Not all stakeholders agree, but the incorporation of these alternatives into policy dialogue can bring clearer understanding of the potential for safe migration to contribute to other prevention activities.¹⁵⁶

¹⁵⁶ ILO TIA Series. 2001, *Legal labor migration and labor markets*, Bangkok.

5.5.2 Interception/Rescue Programs

(a-i) Bangladesh – Government Activities

- **MWCA.** The CPCCT project of Women Affairs Department under MWCA provides for temporary shelters in 25 upazilas and one rehabilitation center for rescued children. However, at the time of writing it is not clear if this component will be continued once the revised project proforma is in place. The project has encountered difficulties in locating suitable premises, and there is concern about the capacity of the agencies to provide adequate standards of care. As identified above, there is an ongoing need to rethink how temporary shelter is provided to children, and the potential to adopt more innovative ways of caring for trafficked persons without inflicting more harm or stigmatization. These are difficult issues to address given MWCA's funding constraints.
- **Home Ministry.** The actual operation of rescuing trafficked children falls within the mandate of the Home Ministry, while MWCA undertakes programs and activities for prevention and rehabilitation. The main activities are in training, communication, management of information systems, repatriation, providing temporary shelter, and rehabilitation of rescued children. In addition, the Home Ministry is responsible for providing awareness training to journalists, lawyers, teachers, youths, health and family planning workers, and the employees of the Department of Women Affairs.
- **Local Government Division.** Under the Ministry of Local Government Rural Development and Cooperative, the Division has attempted to enforce registration of all births, deaths, and marriages. The efforts are designed to strengthen the registration system, collect and analyze sex-disaggregated vital statistics, establish the right to identity of children including girl children, and facilitate the protection of the rights of married women. Target groups are women and girls.

As the Local Government Act is now in the process of being drafted, one of the major responsibilities of the union parishad (UP) is enforcement of registrations of birth, death, and marriage, by simplifying the registration procedure and taking it closer to the people (i.e., by preparing simple messages for the general public on the importance of birth, death, and marriage

registration). There are also provisions for orienting UP members, local NGOs, women's organizations, and government functionaries to the importance of this legislation. The Local Government Division plans to undertake public education programs (seminars, workshops, drama, folk song, etc.) and use the media to create public awareness on vital registration. While the main objective of these programs is to reduce child labor and early marriage, NGOs like the Aga Khan Foundation and the Association for Community Development in Rajshahi have been organizing training courses for the empowerment of local government elected female members of UPs to introduce antitrafficking messages into these birth and marriage registration campaigns.

Oxfam GB has argued¹⁵⁷ that elected officials—particularly women—in local government should be encouraged to take leadership on trafficking issues and assist trafficked persons in taking out cases against traffickers. Elected women have the potential to assist trafficked victims in seeking justice through the local *Salish* systems, as this lowest level of government is the most accessible form of justice to most poor community members. Oxfam is focusing much of its antitrafficking efforts on awareness raising and capacity building at this level of government.

(a-ii) Bangladesh – NGO Activities

- **BNWLA** is the pioneer national NGO that started its work rescuing trafficked victims and providing them with legal assistance. It now initiates legal action against traffickers and works with its counterparts in India to help trafficked victims return to Bangladesh. It currently runs one of the largest shelter homes in Bangladesh. After identifying victims of internal trafficking through extensive investigation in brothels and police stations by its field officers and investigators, BNWLA rescues and releases survivors of trafficking from various confinements with the assistance of law-enforcing agencies. For crossborder trafficking cases it organizes repatriation of survivors with the assistance of partner organizations and government departments concerned of both Bangladesh and India.¹⁵⁸ BNWLA's comprehensive

¹⁵⁷ Interview with RETA team.

¹⁵⁸ BNWLA Special Bulletin 2001.

recovery program for trafficked persons includes providing safe shelter, medical treatment, psychosocial counseling support, formal and nonformal education, and recreational and vocational training on various trades.

- **ACD**, with the financial support from Save the Children Denmark and NORAD, has been implementing interception projects in the northern part of Bangladesh. It also runs a shelter home for the children of trafficked victims or sexually abused children. It receives rescued children from police custody and keeps them in a child-friendly environment.
- The **Dhaka Ahsania Mission (DAM)** provides support services in communities for awareness raising, rescue, repatriation, rehabilitation, or reintegration of the victims of trafficking. It holds courtyard meetings with the village community and has a shelter in one of the border areas for rescued victims.
- **INCIDIN Bangladesh** works with boys and girls engaged in street-based prostitution in Dhaka to improve their health (both physical and psychological), and provides opportunities for alternative forms of employment. It seeks to link up with other NGO and government interventions for improved service provision to children, better coordination, and rapport building.
- **Aparajeyo Bangladesh** offers drop-in centers for street children. It recognizes that integrated efforts are required to combat children's lack of trust, low self-esteem, and shame (particularly if they have been sexually abused and/or exploited). Some children are extremely traumatized and may require more psychosocial care and services than others to help them recover.

(b) India – Interceptions and Rescue Activities

If victims are rescued before they have been exploited too severely, the probability of being accepted back into their communities is much higher—if that is the choice of the victim. This tactic also means the traffickers can be identified and cases pursued immediately. **Stop Trafficking**, Prostitution and Oppression of Women and Children (**STOP**) in New Delhi, **Odanadi** in Mysore, and **Sanlaap** in Kolkata provide instances that due to the covert/dangerous clandestine nature of operations, the sooner the victim is rescued, the better the possibilities are possible for reintegration from a psychological point of view.

The government has an extensive network of short-stay homes and homes set up under the Juvenile Justice Act for protection and rehabilitation of the victims of prostitution. **DWCD**, under section 21 of the Prevention of Immoral Trafficking Act, has established protective homes for girls and women detained under this Act. Currently there are 80 such homes that provide custodial care, education, vocational training, and rehabilitation including arranging marriages for the inmates. A network of short-stay homes is also in place under the sponsorship of DWCD (state and central level). Juvenile homes (360) under the Juvenile Justice Act have been established for the protection and rehabilitation of victims, where medical services and counseling are made available. The **Central Social Welfare Board** also provides financial assistance to NGOs to run development and care centers for the children of victims of commercial sexual exploitation who are extremely vulnerable to sexual exploitation.

The quality of these rescue homes is a crucial and very significant factor, which determines the effectiveness of the strategy, yet there have been few efforts to monitor their quality. For instance, the Mumbai High Court has set up a special committee of voluntary-sector representatives, scholars, and human rights lawyers to supervise the functioning of all state-run residential institutions for children in the state of Maharashtra. This is said to have made a great difference in the management of the institutions.¹⁵⁹

NGOs have played a significant role in the rehabilitation of trafficking victims. However, the biggest challenge is timing and the mechanisms by which victims can be returned to their family (if appropriate) while avoiding further victimization. NGOs realize that unless there are adequate back-up systems, simply rescuing the victims through raids by the police can actually drive the victims further into bondage or discrimination. **STOP** (New Delhi) has undertaken direct rescue, repatriation, and rehabilitation of trafficked women and children for several years with great success, often in collaboration with **Maiti Nepal** and **BNWLA/ATSEC** networks in Bangladesh. **Sanlaap (Calcutta)** has also been actively involved in rescue and repatriation. Figures in the case of rescue of women and children from Nepal and Bangladesh by STOP and Sanlaap have been recorded in the crossborder section. The Department of Budget and Management of Calcutta is involved with rehabilitation of organized

¹⁵⁹ Prerna, 2002. op. cit.

sex workers and preventing entry and facilitating exit of minor girls. Network Against Commercial Sexual Exploitation and Trafficking (**NACSET**) has started residential institutions for the children of CSWs in the districts of Ahmednagar, Latur, Pune, and Solapur in Maharashtra.

The Joint Women's Programme (**JWP**) is preparing a draft rescue and repatriation policy (cross-border/internal) to be submitted to the Government of India. The main objective is to develop a common policy for rescue and repatriation so that a holistic perception of victim rehabilitation is taken into account for programming. Three aspects are being tackled:

- To facilitate a process with stakeholders, as certain NGOs are dealing with new entrants from Nepal to India while other NGOs are repatriating them. They need to focus effectively on appropriate geographic areas and issues involved.
- To link police and NGOs on borders to stakeholders in source areas. This would help a holistic program evolve wherein the rescued victim would have to be accountably rehabilitated at source area or otherwise by the state government (with NGO support). Otherwise transitory measures would have to be found in the interim period.
- To prevent police from being part of the trafficking nexus. This would involve a review of the Police Act to improve their functioning and mandates, and implementation of the National Police Committee recommendations to improve working conditions.

(c-i) Nepal – Government Activities

MWCSW: The NPA, through its crossborder, regional, and international initiatives, aims to strengthen antitrafficking efforts at the bilateral, regional, and international levels, and includes activities such as initiation of bilateral talks and development of an agenda for antitrafficking measures. Apart from this, the establishment of a network system to coordinate antitrafficking operations at the bilateral and regional level and the enforcement of an extradition treaty are also identified as key elements to strengthen the Government's response to rescue and repatriation concerns. The NPA also pointed to the need for compensation for the trafficked persons, a regional court for legal action, and a database system for sharing information at the regional and international levels.

Little concrete progress has been made in these areas. However, the impetus of the signing of the SAARC Convention on Prevention and Combating the Crime Trafficking in Women and Children for Prostitution in January 2002 may push this process forward as commitment to carry out many of these activities is included in the Convention.

The activities aimed at rescuing trafficked people also include setting up crossborder patrols and spot checks, developing strong networks with NGOs, and establishing a registration and counseling system for girls and boys at the entry/exit points. However, implementing these plans effectively has been dogged by poor allocation of resources to programming.

The effectiveness of legal frameworks in each country is outlined in Chapter 4 above.

(c-ii) Nepal – NGO Activities

Major NGO activities related to rescue, rehabilitation, and reintegration are community surveillance systems, crossborder intervention (taking those suspected of being trafficked off buses or trucks), awareness programs for border guards and police and other stakeholders, training and counseling, tracing parents and guardians, medical services, family counseling, seed money, and support for reintegration. Ms. Anuradha Koirala of **Maiti Nepal** informed the ADB team that one of the major objectives of her organization is to rescue the potential victims of trafficking. The percentage of minors rescued is just 20% and there is a need to give more priority to rescuing minors.

Community surveillance is a feature of most community-based interventions and allows communities to become more directly involved in protecting and intercepting those most vulnerable from within their own communities. This raises awareness within the community of what is going on and provides opportunities to change attitudes regarding the harm caused to trafficked persons.

For example, the Community Surveillance System Against Trafficking of **CeLRRD** assumes that the community is often the best medium to deliver a system to address social problems. Primary-phase activities include paralegal training for women and men, CRC and CEDAW training for school teachers, and leadership training for local elected representatives. Secondary-phase activities aim at developing additional community resources through the establishment of hotlines and rescue systems, community outreach in the legal profession, etc.

Border-based rescue attempts to intercept girls and women at border points between India and Nepal. NGOs, in collaboration with the police, intercept women and children whom they suspect of being in the control of traffickers. However, it has been reported that this process is somewhat complicated as no legal document is necessary for a person entering India from Nepal.¹⁶⁰ Such interventions call for careful analysis of the situation as actions taken may encroach upon an individual's right to mobility. At present, no data is available on the accuracy of methods used for identifying trafficked persons or the proportion of intercepted women and children who are trafficked again later.

Maiti Nepal has established transit homes and patrols at sensitive exit points along the India-Nepal border to prevent girl trafficking and a border surveillance campaign to identify pimps attempting to traffic girls/women before they enter India. The NGO sends intercepted girls to their transit homes and then tries to return them home. The local police administration, businesspeople, industrialists, political party workers, representatives of local organizations, and local conscientious citizens also assist in this effort. Maiti Nepal posts female staff at the border to patrol the area and identify girls who are being trafficked and pimps. Returned trafficked girls are also posted at the border, to assist the NGO workers to understand the deception and modus operandi of the pimps. This way about 1,000 girls have been apprehended at the border by the organization.

Source: Maiti Nepal. 2001. An interaction Workshop Report on Common Political Commitment Against Girls Trafficking, 8 September 2001.

A district-level network group against girl trafficking was established at Biratnagar in 1998. This organization consists of 40 members belonging to different organizations and disciplines. This network is a branch office of **ABC Nepal**, established to carry out several activities for the prevention of girl trafficking. Since its inception, it has been organizing community awareness programs on girl trafficking crimes; managing street rallies, street drama, and video films demonstration; conducting advocacy seminars with district-level authorities, CBOs and businesspeople; providing legal advice and counseling to the trafficked persons/returnees; conducting awareness programs on HIV/AIDS and STDs; organizing seminars/workshop on girl trafficking; and providing skill development training for unprivileged girls who are at high risk of being trafficked.

¹⁶⁰ The Asia Foundation and Population Council Horizons. February 2001. op. cit.

(d) Findings from Interception/Rescue

Strategies to improve the rate of interception and rescue of trafficked persons and prosecution of perpetrators involve a wide range of actors that reach across different government ministries and international borders. There are certain activities that, if carried out at a regional level, offer opportunities to build collaborative approaches including:

- **implementation of the SAARC Trafficking Convention**, including review of existing structures and operational obstacles to safe and rapid rescue and repatriation of trafficked persons;
- strengthening of government and NGO **institutional base and technical capacities** required to ensure that rescue and repatriation activities adopt a rights-based approach that ensures the needs of the trafficked person are paramount;
- creation of **standards and codes of conduct** in the operation and management of rescue and repatriation measures;
- establishing **monitoring mechanisms** to ensure codes of conduct are implemented and quality of services maintained; and
- building collaboration and cooperation among governments and between governments and NGOs from across the region.

Rescue programs require a very complicated series of activities, especially when working with governments of other countries where regulations may be different and enforced in an unpredictable manner. There are complicated issues of identity and nationalities when minors without papers or proof of nationality are involved. **Birth registration campaigns** could go a long way to simplifying some of these issues, as a child's identity could be officially verified. Absence of papers and proof of nationality often cause delays for repatriation, and in many cases, as trafficked persons are held in prisons or substandard shelters, delays cause more harm. It is often asserted by some stakeholders that after a "rescue" operation, trafficked persons are detained and treated under conditions worse than those experienced in brothels or domestic work.

The rights of those wishing to remain should also be respected. However, this is challenging for several NGOs. There is an increasing number of cases documented of Bangladeshi and Nepali women who would prefer to remain in Indian brothels or to find alternative income sources and live in India. All Nepali adults under the Friendship Treaty have the right to take up residence in India, but few are offered this

alternative and especially not during the police-led raids, when they are routinely sent back to Nepal without being consulted.

Standards have been developed by GAATW for the handling and process of nonnationals under these circumstances, but there are challenges for enforcement agencies to comply with these standards. Linkages with NGO networks have helped police and border officials to revise legislation and regulations. International treaties and conventions are helpful but can only go so far when implementation is restricted by lack of awareness and resources on the government side.

Government agencies and NGOs in GMS have been seeking improved mechanisms for humane repatriation of trafficked persons. Procedures and responsibilities have been set out in a series of MOUs in Thailand (between government organizations, between government and NGOs, and among NGOs) and a draft bilateral MOU between Cambodia and Thailand is now on the point of being signed. The RETA sponsored an exposure visit for representatives from government and NGOs from all three South Asian countries to learn more about this process and the lessons learned from both Cambodian and Thai stakeholders.¹⁶¹

There is potential for these kinds of regional initiatives to be carried out under the auspices of the SAARC Trafficking Convention. However, there is concern from many stakeholders that the Convention also requires **additional amendments and revisions** to ensure that a broad enough scope is incorporated to address more effectively complex trafficking issues. Steps are needed to improve understanding of the changes that effective implementation of this Convention will require by signatory governments. For example, interministerial bodies in each country could be formed to address as a high priority how to regularize existing legislation and manage

In January 1999 GAATW published a set of human rights standards for the treatment of trafficked persons. These guidelines provide a definition of trafficked persons and outline the responsibilities of the state regarding trafficked persons, including respecting the principle of non-discrimination; providing access to justice and to private action and reparations against traffickers and others who may have exploited or abused them, irrespective of their immigration status; providing adequate resident status prior to repatriation to ensure such criminal or civil cases can be taken out; and providing health and other services (shelter, counseling).

Source: GAATW Web site: www.gaatw.org

¹⁶¹ At the RETA Regional Workshop, representatives of all three RETA governments met to discuss next steps in implementing these aspects of the SAARC Trafficking Convention based on the experiences of the Exposure Visit. Meetings to disseminate these findings were held in Dhaka in June and July 2002 led by Government of Bangladesh Ministry of Women and Child Affairs and Foreign Ministry.

development of new legislation under the new commitments to the SAARC Convention and UN Protocols. This process would strengthen the governance processes, and could be supported through many channels within South Asia.¹⁶² Liaison among counterpart agencies in the SAARC region would be required to ensure exchange and coordination as the process goes forward.

Promoting safe migration across the region has potential to curb trafficking as well as ensuring that migration outcomes are positive and contribute to national poverty reduction and development objectives. Safe migration messages need to take into account the potential risks of crossborder as well as internal trafficking, and hence collaboration among South Asian stakeholders (government and NGO) to maintain updated information about shifts in modus operandi of traffickers and demands for trafficked labor would be important.

Capacity building with law-enforcement agencies should also incorporate safe migration messages, to assist in identifying voluntary migrants and ensure that those at risk are provided with options other than simply returning home. There is evidence in all three RETA countries of police and border patrol officer complicity in trafficking. Recommendations were made at the RETA Regional Workshop that the creation of special task forces to combat trafficking could break these relationships, especially when new structures are provided with adequate funds and technical expertise to be effective. There is also strong endorsement from all countries that any capacity or institution building of law enforcement mechanisms should incorporate gender aspects and understanding of child rights and protection issues.

In an interview with the Nepal RETA team, Shri Krishna Subedi of HimRights-INHURED, who has been monitoring interception activities along the India/Nepal border for the last 2 years, stated that the border patrol have poor capacities and motivation to intercept traffickers and their victims. The police are not trained to scrutinize the motives behind individual's decision to migrate or the psychology of travelers. Countless people and goods move across the border between Birgunj and Raxaul every day and night for a variety of reasons making close monitoring almost impossible. The border police actually only intervene on referral cases from NGOs, thereby entirely depending on them for the source of information. "The credibility question is always there concerning competence and credibility of interception," says Dr. Chandra Kumar Sen, District Program Coordinator of Rautaht-Bara program of Plan International. "We simply browse goods not people," says Mr. Shri Krishna Prasai, customs officer at Bhairahawa-Sunauli border, another major exit point.

¹⁶² Ibid.

Interception at the border areas has been relatively successful in some countries (e.g., Nepal); however, such interventions require careful analysis of each situation to avoid encroaching upon an individual's right to mobility. This process is further complicated as no legal document is necessary for an adult person entering India from Nepal, so opportunity for immigration officers to monitor activities is not possible as it is across other international borders. NGO groups that have built a network of connections between other NGOs active in India and Nepal are in a position to undertake surveillance. They are also developing closer relationships with police and other government officials to assist in looking for missing persons.

However, in **Nepal**, where there is very limited registration of birth, many of the children and young women have no way to be officially identified, limiting the actions of the police. Pilot programs have been initiated that facilitate the registration of children in communities with high incidence of trafficking as a first step towards creating a scientific database system to retrieve, verify, crosscheck, and disseminate statistics on trafficking persons and other missing persons rapidly at border points. Many NGOs stress the importance of these kinds of actions to improve the probabilities of successful rescue and repatriation, and are seeking support to initiate nationwide birth registration campaigns.

Gender sensitization training for law-enforcement agents, especially those working at the border areas and police stations, is essential. In this regard, programs are underway to provide a forum where the police and the members of the community can have an open dialogue to deal with sensitive cases. At the same time, law enforcement mechanisms could be strengthened to penalize offenders, procurers, traffickers, and other illegal service providers such as travel agents and manpower brokers. A network between police, departments of justice, government agencies, and NGOs in sending and receiving countries should be established and existing networks strengthened to rescue and repatriate victims of trafficking. Community accountability is important in improving law enforcement, and can be strengthened through many different types of social mobilization activities.

Although the ministries responsible for women and children's affairs in each RETA country are mandated to lead government efforts to combat trafficking (as so many victims are women and children) they each have little scope to address rescue, repatriation, and recovery issues. Other ministries such as Ministry of Home Affairs and Ministry of Foreign Affairs are mandated with responsibilities associated with rescue and repatriation.

Home Affairs is responsible for police and immigration officials, while any repatriation must also involve Foreign Affairs officials.

Local initiatives, through the direct and meaningful participation of the target community, can enhance all stages of surveillance. Locally based knowledge is vital and social punishment for the perpetrators is harsher than the legal one. Care has to be taken, however, that the right to mobility of those choosing to leave a community is respected, and those in danger from their own families are not forced to remain in harmful situations by community sanction. Shelter homes or safe houses for abused children or women, for example, would be required to provide alternatives to flight from insecure situations if community surveillance is to be effective in addressing the root causes of the need to move to safety in the first place. These vigilance programs should also resist singling out newcomers to communities, or be used to further marginalize those already under suspicion for other reasons.

If trafficked persons are rescued before they have been harmed too severely, the probability of being accepted back into their communities is much higher. This also means the traffickers can be identified and cases pursued immediately. (Often though, the traffickers involved in the transportation of trafficked persons are small players in networks and are unaware of who is brokering the process at the destination point.)

Another method of interception is to enter the places where trafficked labor is being used. This has been done in brothels in **India**—famously in 1996 where 28 young Nepali women were taken from a brothel in Mumbai and returned to Kathmandu. These kinds of operations require coordination between networks of NGOs so that links can be established between the workplace and the point where the survivor is returned. NGOs and government in Nepal learned many lessons through the experiences in 1996. For example, at that time little attention was paid to the rights of the survivors to anonymity as they were identified in the press and by police as “prostitutes,” revictimizing them through stereotyping them as “bad” women. Adult women were also denied their right to remain in India.

5.5.3 Reintegration Programs

(a-i) Bangladesh – Government Activities

The Bangladesh Government does not have any specific program or project responsible for integration of trafficked children and women.

Under MWCA, two shelter homes have been established (Nari Nirjatan Protirodh center and One Stop Crisis Centre). These two shelters are mainly dealing with women victims of violence. There are some facilities for building skills that mostly concentrate on traditional trades. The vocational and skill development activities are for poor vulnerable women but not specifically for trafficked victims. The main constraint in this sector is that government does not have any mechanism to rescue the trafficked children, therefore no records or comparative studies on the effectiveness of different approaches for integration of women and children are available. The CPCCT project, under MWCA, has the provision to strengthen the integration of trafficked victim children, but there is no report on activities to date.

(a-ii) Bangladesh - NGO Activities

BNWLA, ACD, Dhaka Ahsania Mission, and Ain o Salish Kendra have worked in the field integrating the trafficked children and women they have assisted to return to Bangladesh. It appears from their work that personal influence, community acceptance, and high regard for the NGO are critical for ensuring community acceptance and trust to encourage integration.

The main trend of integrating trafficked children and women is to engage them in nonformal or formal education systems, and organize special vocational training for developing skills. Vocational skill training is also a feature of many NGO interventions for children who have been sexually abused and exploited or who are at risk of being sexually exploited.

Some NGOs admit they need to do more to challenge gender stereotypes and encourage girls to explore other skills. For example, girls living in the BNWLA shelter home learn embroidery, painting, and tailoring. Recently BNWLA has started providing computer literacy training to 12 semi-literate girls. The Institute of Digital Technology, a local computer institution, has designed the 6-month training package, taking into consideration the trainees' understanding and ability. BNWLA has also organized some four marriages for the adolescent survivors, as part of the integration approach. Some children have been returned to their parents. BNWLA also encouraged other NGOs to open nonexploitative job options for trafficked children and women. They have sent some girls to different NGO offices. Thirty children have received skill training on different trades. Twenty-five children have been provided an education

by establishing a school where a special curriculum is being followed. A further 77 children have been integrated under different projects of BNWLA.

In the Adolescent Girls' Hostel of **Aparajeyo Bangladesh**, several girls who did not pursue higher studies are garment workers. The girls working in the garment industry may not earn much, but none are compelled to go back to the street or sex work. The efforts to build street children's awareness, pride, and confidence in themselves means that many girls want to forget their past life.

(b) India – Reintegration Activities

In terms of rehabilitation and reintegration programming in India, the picture is currently mixed. Source-area prevention seems to have a lion's share of resources (one source estimates 80% of resources). Sustainable rehabilitation seems very difficult and scarce, especially economic alternatives on a viable and large-scale basis.

Once victims of trafficking have been rescued, they are faced with a new set of challenges. In many cases return to their places of origin is difficult, if not impossible. Social stigma from their families and communities is enormous, especially for CSWs. Many survivors chose to leave their communities anyway, and have little desire to return unless the causes for their exclusion or estrangement have been resolved (for example, abuse within the home, conditions of poverty with no livelihood choices). The **Gudia program** in Uttar Pradesh has innovative strategies utilizing cultural medium and tools to integrate victims in the mainstream. Initiatives such as these aim at sensitizing the general public and thereby creating an enabling environment for the rehabilitation of CSWs.

The work of those organizations involved in assisting survivors to reintegrate (or integrate) into a different way of life is complex. There are immediate short-term issues that need to be addressed as well as creating a longer-term view of life for the survivor with greater choices and little or no temptation to return to the place where they were exploited. Despite living under extremely exploitative circumstances, some survivors, after assessing their options, still choose to return. This appears to be especially the case for women who have been working in brothels who find the option of a restricted married life—even if that is available to them—too confining. Once they became used to their working and living conditions in the brothel, some find these circumstances more empowering and tolerable. Similarly when survivors experience extreme stigmatization,

their options for survival are very limited and the psychological burden very strong, and hence they choose to return to their previous work. Several case studies by **APAC** in Tamilnadu state indicate that after several years of being trafficked, women did not want to take back the responsibility of running homes, paying electricity bills or school fees, or other routine responsibilities. They could have short-term gains in terms of a more luxurious life style of eating biriyani, drinking liquor, and frequenting movies ... buying luxuries not always possible in their prior poverty circumstances.

There are differing responses to these circumstances from organizations working from different ideological foundations. Some organizations consider that commercial sex work of any kind is immoral and at any cost women should be protected from returning. Others take a rights-based approach that recognizes that any individual has the right to choose to be a commercial sex worker. (This does not mean that these organizations condone the harm that is done to many survivors.)

- **STHREE** (Ananthpur) runs ad hoc rehabilitation homes that became a necessity, as many victims need a transitory space to cope, to be counseled, to be protected, and to start the integration process.
- **Abhaya** in Trivandrum has also provided shelter homes for rehabilitation and skills in a complex outside Trivandrum.
- **Ashramalayas** in Sagar (Madhya Pradesh) provide Bhedia children an opportunity for rehabilitation.
- **Samaskar** in Nizamabad, **Help** in Ongole, and **Rise** in Tirupathi (all Andhra Pradesh State) provide vibrant examples of NGO initiatives in setting up rehabilitation homes. The new scheme of DWCD, Swadhar, would seem the ideal model for such rehabilitation processes too.

Success of rehabilitation strategies varies for example between trafficked CSWs and those with traditional sanctions (such as Devadasis, Joginis). The traditional CSW (i.e., the Devadasis) often conclude practice around 35 years of age as they have a community of their peers with arrangements for a semblance of reintegration into the community. In the other CSW cases, relapse is very high as sustainable livelihood programming is neither available on a large-scale nor is accessible to them. One reason could be the comparative levels of earnings between these categories of victims. The highway victims, however, are the most difficult to rehabilitate.

(c-i) Nepal – Government Activities

- **MWCSW.** Rescue and reintegration programming is also covered under the NPA. Establishment of transit homes, shelter houses, and training centers, counseling programs, nonformal education, vocational skill training, and community-based rehabilitation centers are some of core activities identified. MWCSW is running a Women's Self-Reliance and Rehabilitation Center where women are selected for training from 26 trafficking-prone districts and later return to their communities to work on awareness raising, surveillance, and imparting their training skills to others. Recently the Government established a home for prison children. The ILO/IPEC program is also supporting government efforts to build the capacity of counselors in Nepal and the quality of care in shelter homes.

- **HIV/AIDS.** The Health Minister heads a committee coordinating nongovernment and government efforts to address HIV/AIDS, while the secretary of the Ministry of Health heads a coordination committee to implement policy. Committees have also been formed at the district level to assist local coordination and effective implementation of policy. HMG has adopted a multisector approach under the Ninth Five-Year Plan (1998–2003). The approach focuses on raising awareness of HIV/AIDS to a predominantly illiterate population via popular media such as street drama and home videos. Safe sex messages on the use of condoms are also being broadcast over the state-owned radio and television in 12 local languages. However, there is no specific mention of programs or initiatives to assist CSWs, trafficking survivors, or other high-risk groups such as street children.

(c-ii) Nepal – NGO Activities

The reintegration programs undertaken by NGOs target trafficking survivors, their families, their communities, and health workers. The process generally involves handing over the returnees to the family and assuring that they are not revictimized. Most NGOs first undertake a process of medical checks (some requiring HIV/AIDS testing) and counseling for the returnees. An effort is made to contact the family members and, depending upon the willingness of both parties, they are either sent home or provided shelter.

To date Maiti Nepal has repatriated a total of 280 girls under 18 and out of them 200 were kept in the rehabilitation centers. Some 220 girls were subsequently reunited with their families. ABC Nepal has rescued a total of 53 trafficked persons (girl children). Of them 39 were kept in its rehabilitation center and two were reintegrated with their family. NAWAJOTI rescued altogether 14 girls and all were kept in

its rehabilitation center for a period of 12 months; 13 were reintegrated after that.¹⁶³

Activities also include training and counseling, tracing parents and guardians, medical services, family counseling, and seed money for income-generating activities. The interventions adopted by the NGOs can be classified according to their approach. Some NGOs adopt a welfare approach in which girls and families are given prescriptive advice about future options and a return to the status quo is advocated. Others aim to empower trafficking survivors and engage in a dialogue with women and girls about their futures. Rehabilitation centers have been started by some of the NGOs where the returnees are not only provided shelter but also counseling, vocational training, legal advice, nonformal education, etc.

Several rights advocates, including Shakti Samuha (an NGO founded and managed by trafficking survivors) have challenged the notion of the conventional rehabilitation scheme. The prison-like condition of rehabilitation centers and the provision for traditional skill development programs like knitting and sewing are not enough to help them survive as independent, empowered, and enlightened members of society. It is generally accepted by stakeholders that reintegration approaches and quality of services need to be strengthened, but the lack of resources limits most attempts to enhance these programs. Based on a recent regional study, UNIFEM has identified the need for a regional training program for counseling and more effective coordination between the various stakeholders for repatriation and reintegration outcomes to be more positive. In an interview, Ms. Alka Rajauria Rijal of Joint Initiative Against Trafficking in the New Millennium stressed that community empowerment programs such as mediation and other indigenously designed and operated social actions are required for a “durable and just solution to combating trafficking.”

Out of 238 girls rescued from the Bombay brothel in February 1996, 128 were brought back to Nepal and placed under the care and support of different social organizations (Table 12).

No long-term follow up has been undertaken to understand either the outcomes of the efforts to reintegrate these trafficked persons into Nepali communities nor their individual experiences. Comparative information on the relative effectiveness of each approach taken by the organizations involved would provide great insight into the services needed by trafficked persons to facilitate their choices for reintegration—or safer return to India, if this is ultimately the outcome they prefer.

¹⁶³ SAP Nepal. 2001. op. cit.

Table 12: Trafficked Persons Repatriated by NGOs in 1996

Organization	No. of Girls
CWIN	24
ABC	28
WOREC	12
Maiti Nepal	28
Stri Shakti	10
Shanti Punarsthapana	12
Nawajyoti	14

Source: Pradhan, Gauri, 1997. Back Home from Brothels, CWIN November 1997.

(d) Findings for Reintegration Programs

Generally, in all three RETA countries, there are very limited resources available for this type of programming. There are few facilities available that can serve as shelters or temporary homes. There are persistent problems with the quality of care provided, especially in long-term homes where many children might end up being institutionalized for years. Alternatives to this kind of care need to be urgently tested and funded, as well as the development of professional standards among caregivers. While there are only limited and often substandard facilities available, many trafficked persons will prefer the option of remaining in exploitative or abusive living conditions under the control of traffickers, or returning to life on the streets.

It was clearly identified by many stakeholders that there are difficulties in accessing development resources from mainstream poverty reduction programming for individuals or groups of returned trafficked persons. Encouraging projects to incorporate trafficked persons as a target group was recommended. This approach requires sensitivity, however, to ensure that survivors are not further stigmatized by mechanisms that single them out.

Reintegration of women and adolescent girls into their own community is very complex and challenging. Welfare-based approaches to rehabilitation with traditional vocational training schemes have not proved effective in offering sustainable alternatives for a sustained livelihood. The counseling methods adopted by some NGOs offer little respect for the rights and dignity of the trafficked persons.

Short-term needs to support survivors include **immediate shelter and protection, reproductive and general health care, psychosocial counseling, and care for trauma.** **Skill training** is usually offered to provide different livelihood options, as well as literacy and, for children, education

It has been widely observed that traditional rehabilitation methods as adopted by several organizations have not resulted in sustainable social reintegration for many trafficked persons. There is little professional counseling available in Nepal, and many transit homes resemble detention centers. Abrupt interception at border crossings and inflexible approaches to rehabilitation have been criticized by some as violating fundamental rights of freedom of mobility and migration. According to Dr. Arjoo Deuba of Samanta, a leading research institute in Kathmandu, many rescue stories tend to reflect heroism of NGOs and activists while neglecting the true plight of the survivors. Ms. Pooja Mijar of Shakti Samuha maintained that “it is not enough to give victims a place to live and eat, they need to be empowered in order to struggle and live in society.”

opportunities. There is increasing concern that some of the counseling services provided in the shelters are of poor quality, and that the types and levels of psychological harm done to survivors are not well understood. Efforts are being made to professionalize these services, and create standards of care to ensure that there is no further abuse of survivors in the shelter system. CPCCT in Bangladesh, ILO in Nepal and its regional programming, and the UNIFEM Regional Project have started this process by supporting assessments of the current situation and developing pilot activities. Alternatives to institutionalized care also need to be explored, especially for children.

There has also been some criticism that the skill training in some cases is not appropriate to the types of employment available to survivors, or to create their own income-generating activities. Women and girls are offered stereotypical skills. While many of the activities are planned with the best of intentions, it is suggested that careful follow-up and monitoring of survivors once they leave the shelters would provide valuable information to the NGOs on what worked and what did not. Programming could then be adjusted accordingly and more appropriate skills identified.

Longer term needs and interests of survivors include programming that is built on the intended outcome of **increasing life options**, rather than simply returning the survivors to their original home or family. Options need to be considered for longer-term integration (return to home environment, different community, remain with fellow survivors in community living situations, etc.). Support to the survivor should be continued as she or he makes his or her own choice. Working with children in this regard is more challenging, but again the causes for the children’s vulnerability to trafficking in the first place need to be considered as their future is planned, as they may have no desire to return to their families.

Awareness raising is also required in the communities where survivors settle to ensure that revictimization does not occur. Assisting families of

survivors to link with economic development programs available in their community, or literacy programming for girls and women, might provide greater stability to the family, and increase the probability of acceptance of the survivors especially if they return with some economically viable skills themselves. It is also necessary to monitor posttraumatic stress symptoms. Clinical experience has demonstrated that the trauma many of the survivors have suffered causes long-term psychological and physical harm, and few services are available in the mainstream health services for these effects of trafficking.

Combined approaches to provide income-generating skills and other **self-esteem building opportunities**, as well as counseling to overcome posttraumatic mental health problems, are required. One approach to address livelihood issues would be to encourage poverty reduction programs to offer groups of trafficking persons access to development resources through mainstream project activities. This approach requires sensitivity, however, to ensure that survivors are not further stigmatized by mechanisms that single them out.

More consideration should also be given to **reintegration of migrants into development activities in general**. For example, services for returning women migrants to assist in rebuilding family cohesion, especially if they have been absent from their children for long periods. Programs for reinvestment of remittances in more sustainable income-generating activities, or building these savings into other microfinance programs can assist in building more sustainable livelihoods for the whole community, and spreading the benefits of migration more effectively.

Community awareness regarding the specific circumstances and needs of migrant women can also help reintegration and foster empowering project outcomes. Trafficked persons can also be incorporated into these programs, but without the label of “victims.” They could become part of the mainstream of returning migrants without further stress on their circumstances that leads to further stigmatization. These kinds of programs could be built into existing development activities, such as community-based microfinance activities.

Again, exchange of good practices among organizations and government departments implementing such programs would increase understanding of the circumstances from which some migrants may be returning.

The **effectiveness** of reintegration activities is not clear as there is limited monitoring of existing activities. More documentation of monitoring is urgently needed to help assess the relative effectiveness of

different kinds of intervention. More information and feedback into program design and implementation is required through improved monitoring mechanisms. Furthermore, appropriate indicators have not been identified even for shorter-term outputs from community development-based programming, let alone those required for longer-term assessment of factors such as community behaviors and attitudes towards traffickers and trafficked persons. There is interest from the Population Council¹⁶⁴ to take the lead in encouraging a group of stakeholders in the region to develop indicators and to build monitoring and evaluation capacities among activists and service-delivery organizations

Urban and rural development programs of ADB need to build in targeting for these groups in their programs (for example, the Kerala Sustainable Urban Development and Poverty Reduction Program could build in a livelihood programming linking the Women's Development Corporation, Kudumbshree program through self help groups as part of the vulnerable group component).

5.6 Overall Findings

Poverty in combination with other factors appears to be a major motivation for many women and children from all countries to seek alternative means for survival, some of which involve movement away from their communities, putting them at risk of being entangled in trafficking episodes. These risks, common to many regions of the world, are compounded in South Asia by large gender gaps and limited child protection creating vulnerabilities that traffickers of many kinds (including other family members) can exploit.

There are many similarities in dynamics of trafficking of women and children across the region, and stakeholders have built on these similarities to successfully establish networks to facilitate their operations. Differences do exist, however, in approaches to addressing the issues within the region, some based on specifics of the country, and some on political or historical differences.

Some NGOs already work across borders when involved with rescue and repatriation; however, only recently, through programs such as SAFAHT supported by UNIFEM, the People's Forum that was organized

¹⁶⁴ RETA team interview with the Population Council Regional Office in Delhi, India.

around the negotiations for the SAARC Trafficking Convention, networks are now building around other objectives (exchanges of good practices for all types of programming, advocacy strategies to promote implementation of SAARC Trafficking Convention, etc.)

A theme that emerged from the RETA research, which was strongly endorsed through the consultations with stakeholders, is the need for clarity and caution when developing operational steps to address aspects of trafficking. Challenges exist when developing programming in many areas, for example:

- Migrants need protection through policies and programs to facilitate safe migration, but such activities have been used to exclude women from migration opportunities or to limit the inflow of migrants, thus stagnating the important role of migration in development. New immigration policies might also create new niches for opportunistic traffickers to exploit.
- Communities need to be made aware of the harm traffickers cause when they arrive in their midst, but without causing suspicion of newcomers or marginalizing those already considered “different.”
- Labor standards must be addressed to curb the demand for trafficked labor, but this is very challenging in the informal sector and can create suspicion from within the formal sectors as measures by developed countries to limit trade from economies with cheap labor.
- Targeting the vulnerable and source areas is difficult as the modus operandi of traffickers is flexible (to fill demand niches as they emerge and to change their routes or source areas to evade prosecution).

There is some agreement among stakeholders about areas that require further attention. For example **data collection and analysis** (informed by migration trends, policies, and outcomes in the region), and monitoring of antitrafficking activities, as little is known about what has worked and why.

There is little work done in the region regarding the **demand side of the trafficking process**, except some research and micro studies in the commercial sex sector. The demand for trafficked labor now reaches beyond the region into the Middle East, some countries of South East Asia, and perhaps farther still. Traditional assumptions about the demand

side need to be challenged and a better understanding of the links with trade, migration, and globalization needs to be established. ILO has been exploring how to stem the demand for child labor in several sectors, but more concerted efforts to understand this side of the dynamic of trafficking is important (for example regarding the trafficking of women into domestic work, particularly in the Middle East, and how to address exploitation of migrant labor in these countries).

Migration policies in more developed regions of the world are limiting the flow of migrants from regions such as South Asia, especially unskilled migrants. This will have a significant impact on the dynamics of trafficking as illegal and irregular channels are sought by those still seeking to migrate. Unskilled and low-paid employment opportunities are already concentrating in regions where slack labor standards can be exploited—again having impacts on the demand for trafficked labor.

Governments are starting to work together to address trafficking problems, for example the commitments made by SAARC member countries in signing the SAARC Trafficking Convention despite considerable political tensions in the region. These newly opening channels provide scope to build collaborative approaches to addressing trafficking and to improve mutual understanding of the impacts of the process on different parts of the region.

The RETA also suggests that ADB and other development agencies can play a constructive role in supporting some or all of the following antitrafficking initiatives associated with supporting the strengthening of legal frameworks at a subregional or national level:

- Support for improved monitoring of complaints, prosecutions, convictions, and sentences relating to trafficking offences to identify enforcement patterns and gaps;
- Support for development of a bilateral or regional database on trafficked persons, and bilateral arrangements to facilitate exchange of information and repatriation;
- Support for a regional study, perhaps by a technical expert group under the *SAARC Trafficking Convention*, to make recommendations for harmonizing national laws relating to trafficking, in order to facilitate regional cooperation in investigating and extraditing traffickers and providing assistance to trafficked persons;
- Support for NGOs working on legal literacy/empowerment of women, including paralegal training;
- Support for capacity-building of local government officials,

- especially elected women, to promote community awareness and monitoring of trafficking;
- Support for training of police investigators, magistrates, prosecutors, and judges on trafficking and women's/children's rights;
 - Support for establishment of effective birth and marriage registration systems; and
 - Support for monitoring and enforcement of labor standards in workplaces, including the development of codes of conduct by private sector industry associations and enterprises.

5.7 Recommendations

5.7.1 Government

The governments included in the RETA study are reaching across borders to address trafficking issues as demonstrated by their continued commitment to implement the SAARC Trafficking Convention. There is a need to involve more **government agencies beyond the trafficking focal points to build their capacities** to address trafficking and related concerns (e.g., women's empowerment, safe migration, poverty reduction interventions) with regional dynamics in mind. Ministries such as those responsible for labor, social welfare, as well as expatriate and overseas workers, home and foreign affairs are all implicated in implementation of the SAARC Trafficking Convention. The RETA supported one initiative in this area through the Exposure Visit to Thailand to explore experience in the Great Mekong Subregion where a broad range of stakeholders are seeking to address trafficking from a regional perspective. Other avenues for collaboration in South Asia can also be explored in partnership with ADB, for example development of regional road corridors and the impact on movement of people as well as goods, trade, and migration policies.

New mechanisms can be developed under the framework of the SAARC Trafficking Convention. For example, Article VIII of the SAARC Trafficking Convention provides several pointers for measures to prevent and interdict trafficking in women and children. In 1987, the first SAARC Technical Committee on Women and Development was set up and adopted **a common framework** for developing a guidebook of Women in Development in the SAARC region. This meant evolving a general

format and methodology acceptable to all member countries. Subsequently through frequent consultation, common variables were accepted. A similar exercise is required on the issue of collection of standardized data about the extent and scope of trafficking of women and children for prostitution, as a starting point for collaborations. This could be taken up by the focal points in the three countries through the mechanisms of the Regional Task Force mandated in the SAARC Trafficking Convention.

Improved data collection concerning crossborder flows (through strengthening of national crime data systems) will increase accountability and capacity to monitor crossborder flows. All South Asian governments should also reach consensus on standardized format for collection and sharing of data among countries, which will not only improve the understanding of nature and magnitudes of trafficking but also facilitate tracking of missing persons, implementing effective rescue and repatriation procedures, and increasing prosecution of perpetrators.

Several gaps have already been identified in the SAARC Trafficking Convention and there is interest among some signatories to review and identify suitable amendments. It is important that NGOs partner with their governments in this process as their participation is required for effective implementation of the Convention.

It is important that there be increased recognition of the **vital role NGOs play** in combating trafficking. NGOs are not only involved in delivering services to many trafficked persons, but are also able to bring alternative voices to the table, for example those of trafficked persons. Governments in the region already work very closely with civil society organizations, but levels of consultation could be increased, for example regarding amendments or revisions to the SAARC Trafficking Convention. NGO direct involvement in any task force or committee set up to implement SAARC Trafficking Convention is vital.

The appointment of a **Special Rapporteur on Trafficking** is being considered by some stakeholders and multilateral agencies, both for individual countries and within the context of the region and the implementation of the SAARC Trafficking Convention. If broad-based support for this approach is achieved, it would be important that this person be given a relatively broad mandate and scope to look beyond legal and human rights mechanisms; for example, that she/he have the potential to explore and build opportunities for positive migration outcomes, especially for women, and that the protection of human rights encompass the right to freedom of movement.

Governments within South Asia should also consider the benefits of collaborating to protect **rights of migrants** from South Asia in receiving countries e.g., Middle East, South East Asia. As identified in the RETA, migrants, women in particular, face high risks of being trafficked as both irregular and legal migrants to these countries. Sending governments have a role in providing some support and protection to these migrants, but so do the receiving countries. If SAARC countries were to work together to advocate for enforcement of international commitments concerning issues such as child labor, protection of migrant rights and enforcement of core labor standards, the impact would be greater.

5.7.2 NGOs

Several individual and networks of NGOs are already **linked across borders** to cooperate on rescue and repatriation. A UNIFEM project is now also providing a forum for different types of networking. If more support can be provided for these efforts, exchanges on good practices in all areas of programming can be effective. For example the area of advocacy for issues such as implementation and revision of the SAARC Trafficking Convention, innovative and alternative bilateral mechanisms can be disseminated to provide safe migration channels, and standards and procedures for quick and humane repatriation.

In the context of bringing a **broader base of funds and expertise** to address trafficking concerns within mainstream poverty reduction programming, specialized NGOs will have to link with other civil society organizations and networks that offer this wider scope of expertise and funding. For example, the implementation of microfinance initiatives that empower women and successfully mobilize communities to take on issues such as trafficking requires highly specialized technical expertise that is not necessarily available among those organizations specializing in combating trafficking.

5.7.3 ADB and Possibly Other Donors

(a) Prevention Strategies

The impact of overall efforts can be increased if large poverty reduction and pro-poor programs **target more effectively** those most at risk to being trafficked. Targeting needs to incorporate factors such as agro-climatic zones prone to natural disasters (floods, cyclones) and

periods of low productivity (drought, hilly areas, etc.), social stresses such as civil conflict leading to social disintegration, conflict associated with competition over scarce resources, etc.

It is feasible for agencies such as ADB to **create space in their projects** for links with antitrafficking stakeholders without providing additional large scale investments. Initial design features can seek out entry points for NGO partners to identify who is most at risk for trafficking and ensure that the most vulnerable participate in the benefits of the project. Platforms from which antitrafficking activities can take place can also be identified and used by specialized NGOs, for example in urban infrastructure development projects, during social mobilization activities, trafficking awareness sessions and information on safe migration can be incorporated.

ADB could undertake more careful analysis of the **impact of the construction** phases of their projects. For example, as the arrival of large labor gangs can increase trafficking cases in the area, building codes of conduct into contracting procedures with contractors can address issues such as the nonuse of child labor, including child CSWs. To address the links between increased road traffic and the demand for CSWs along the road can build upon projects combating HIV/AIDS among truck drivers (e.g., Healthy Highways) and encourage these programs to incorporate antitrafficking messages and mechanisms such as surveillance groups, help lines, shelters, and day care for children.

Overall targeting of pro-poor programming of government and agencies such as ADB should build in a greater understanding of the links between **poverty and migration and vulnerabilities** to trafficking.

At the regional and subregional level there is potential to integrate trafficking concerns into projects that are implemented in more than one country in the same key ways. These efforts could be supported considerably through the establishment of a **working group on social development** for South Asia subregional activities including outcomes of the South Asia Subregional Economic Cooperation (SASEC) RETA. This working group could draw on experiences of GMS where trafficking has been identified as a key element of crossborder movements. At the country and project levels the RETA also identifies types of projects with links to trafficking, as well as specific risk factors associated with these sectors of activity and potential entry points.

(b) Interception/Rescue Strategies

For multilateral financial institutions such as ADB, *direct* interventions in this area may not be an option. However, there are various *indirect* supports that it can provide:

- Support to the implementation of the **SAARC Convention**, including review of existing structures and operational obstacles to safe and rapid rescue and repatriation of victims; strengthening of government and NGO institutional base required to effectively rescue and repatriate victims; and creation of standards and codes of conduct in the operation and management of rescue and repatriation measures.
- Along with other **social awareness and social vigilance efforts**, provide support to **inform migrants** and those already mobile of dangers of trafficking and provide institutional arrangements necessary to support vulnerable migrants and trafficked victims at points such as border crossings (this would also assist in prevention).
- Strengthen **capacity of police and other enforcement agencies** in border districts and high- supply areas to limit trafficking activities.

(c) Reintegration/Rehabilitation Strategies

- A primary requirement for long-term rehabilitation, and to prevent re-entry into CSW, is to have an alternative source of income along with acquisition of skills and basic capacity building (education). As financial institutions and other organizations providing microfinance and other livelihood supports do not usually target trafficking survivors, information and frameworks to assist this type of targeting need to be developed and passed on to these institutions so they may facilitate more effective reintegration. For example, providing seed money to initiate enterprises with trafficking survivors.
- Urban development projects often cover areas where trafficking survivors are part of the targeted vulnerable group. The specific needs of these survivors must to be incorporated into projects to ensure they benefit.

As stated in the closing remarks of the Director General, South Asia Department at the RETA Regional Workshop, ADB is committed to addressing trafficking concerns. Since the adoption of the Poverty Reduction Strategy there is greater rationale and potential to incorporate such concerns and new sources of funding are now available. ADB's mandate also directly includes the promotion of regional cooperation. Trafficking is a serious limit on the positive forces of development, and bringing additional resources from broad based poverty reduction projects to address the root causes of vulnerabilities and risks must be encouraged. ADB will continue the commitment expressed through the RETA and now seek other opportunities and means to combat trafficking in all its operations.

CHAPTER 6

INTEGRATION OF TRAFFICKING CONCERNS INTO ADB OPERATIONS

6.1 Relevance of Trafficking to ADB

A complex range of factors influences the dynamics of trafficking. In recent years, ADB has developed and adopted an array of policies that provide both the mandate and instruments to engage more effectively in addressing many of these issues:

- *Policy on Gender and Development* provides guidance and measures to adapt operational designs to improve the status of women and girls and in so doing (among many other benefits), build their resistance to the risks of being trafficked.
- *Social Protection Strategy* sets out specific considerations that may need to be built into ADB operations to ensure that vulnerable groups can be protected from factors that cause and sustain their poverty—and their risks to being trafficked. The strategy also identified how labor markets can be used to strengthen social protection through implementation of core labor standards, which will have additional impacts on the demand for trafficked labor.
- *Promoting Good Governance, ADB's Medium-Term Agenda and Action Plan*¹⁶⁵ includes guidelines for improving the effectiveness of antitrafficking initiatives as well as other programs to combat poverty.
- *Policy on Involuntary Resettlement* and accompanying guidelines such as the *Handbook on Resettlement*¹⁶⁶ provide guidance on limiting vulnerabilities and risks of those living in and around

¹⁶⁵ ADB. 2000. *Promoting Good Governance, ADB's Medium Term – Agenda and Action Plan*.

¹⁶⁶ ADB. 1998. *Handbook on Resettlement: A Guide to Good Practice*.

project areas as well as stressing the importance of building or maintaining social capital to limit risks, such as trafficking.

- *Handbook on Poverty and Social Analysis*¹⁶⁷ provides guidance on ensuring that project impacts do not increase vulnerability to being trafficked and identifying opportunities to prevent, minimize, and mitigate development-induced risks.

However, if ADB is to make a contribution to combating trafficking, specific measures have to be taken within its operations. The following sections outline where the links exist between ADB operations of different kinds (regional and subregional cooperation, poverty partnership agreements, CSP development, project preparation, policy dialogue, etc.) and potential entry points to address trafficking. Overall, ADB operations have the potential to address trafficking in five key ways:

- **Target those most vulnerable to trafficking.** In many cases a subgroup within those targeted for poverty reduction as relative and absolute poor. Ensuring that this subgroup has their basic needs met to limit migration or mobility under stressful and hence most vulnerable situations—for example for families who send away children/girls who then end up being trafficked.
- **Assess the impacts of ADB operations.** It is imperative to ensure that ADB-supported activities do not push people into unwanted migration and hence vulnerability to trafficking. As identified in the ADB *Handbook on Poverty and Social Analysis* and *Handbook on Resettlement*, ADB operations have opportunities to prevent, minimize, and mitigate development-induced migration. Clear links can be made between involuntary displacement and its associated risks of being trafficked once moving.
- **Emergency loans and assistance in postconflict reconstruction.** These activities usually take place among mobile populations, such as refugees, or in areas where communities are returning from involuntary displacement. It is important that ADB activities provide adequate scope to rebuild social and human capital through community-based activities to ensure that physical and social dislocation does not lead to vulnerability to trafficking, especially for women and girls, in already high-risk situations.

¹⁶⁷ ADB. 2001. *Handbook on Poverty and Social Analysis – A Working Document*.

Disaster early-warning mechanisms can also incorporate antitrafficking and safe-migration messages as communities and individuals plan for possible displacement.

- **Encourage safe migration.** ADB could directly and indirectly reduce the risk of being trafficked of those already mobile through various policy or social protection measures:
 - Access by migrants to basic needs, e.g., urban improvement schemes take special measures to identify specific needs of migrant communities where social and community networks do not exist;
 - Social protection measures extended to migrants (e.g., insurance schemes, social security schemes). This is challenging as migrants generally work in the informal sector and many are squatters without official residence status; and
 - Governance strengthened to ensure entitlements to protection from criminal activities extended to those migrants most vulnerable to being trafficked; specific activities to increase community and government accountability to protect children, women, labor force, etc.
- **Stem demand for trafficked labor**
 - Core labor standards implemented and monitored in partnership with private sector, ILO, etc. particularly among small and medium enterprises and in the informal sector; and
 - Encourage activities with indirect impacts in key areas of demand, for example monitoring effects on demand for CSW along highways of changed behavior of transport workers through implementation of safety standards such as reduced driving time, days away from home, etc. These kinds of activities also have links with HIV/AIDS prevention activities.

6.2 Overall Approach: Mainstreaming

While all outcomes of ADB operations that contribute to reducing poverty can be **indirectly** linked to reducing vulnerability to being trafficked, there is ample scope to incorporate specific measures that can have more **direct** impact on reducing risks. The practical approaches adopted by ADB in the *Handbook on Poverty and Social Analysis* to

guide the implementation of the Poverty Reduction Strategy provides ideas and the *Handbook on Resettlement* provides guidance for identifying opportunities to incorporate trafficking concerns and entry points. The *Guide for Integrating Trafficking Concerns into ADB Operations* provides additional guidelines and information on links between trafficking and ADB operations, including tables that identify where links to combating trafficking can be identified based on the approach to poverty reduction set out in the *Handbook on Poverty and Social Analysis* and *Handbook on Resettlement*.

Furthermore, if mainstreaming trafficking concerns into ADB's operations is to be successful, it will also be necessary for staff with appropriate expertise to assist in preparing analysis of vulnerable groups and specific risks as well as designing specific components that directly or indirectly address trafficking concerns to provide leadership and take up these issues—these would include social development, social protection, and poverty reduction specialists.

The legal implications of strengthening codes of conduct and other contractual arrangements with ADB-financed contractors and suppliers also need to be investigated by Office of General Counsel staff. These mechanisms could be used to curb the use of trafficked or child labor. Monitoring indicators also have to be developed and assessed over time and there is potential to link with work already underway by ILO. Support from Project Coordination and Procurement Division will also be required if these approaches to limiting and monitoring the demand for trafficked labor are to be effectively implemented in ADB operations. Specific technical support and guidelines will be needed if these areas are to be fully effective. There is increasing interest among many experts to understand how these and similar mechanisms can be used to address trafficking as several ADB member countries have already put in place legislation or conditionality in their development assistance policies related to child labor and trafficking issues. For example under the United States Government's *Victims of Trafficking and Violence Protection Act of 2000*,¹⁶⁸ beginning in January 2003, the President may authorize the suspension of nonhumanitarian, nontrade-related assistance to any country that does not meet certain minimum standards for the elimination of trafficking and is not making significant efforts to bring itself into compliance with these standards.¹⁶⁹

¹⁶⁸ Pub. L. No. 106-386, 114 Stat. 1464.

¹⁶⁹ See additional discussion of this mechanism in ADB. 2002. RETA 5948, *Supplemental Study on Legal Frameworks Relevant to Human Trafficking in South Asia*.

In addition, the RETA's legal study, as summarized in Chapter 4 of this report, suggests that there are a number of opportunities for ADB to address legal issues related to trafficking and trafficking prevention within its regular programs of assistance to the three countries. These opportunities are particularly apparent in ADB's support for public service reform, anticorruption efforts, local governance, strengthening of social safety nets, law reform, legal empowerment, and access to justice. ADB's recent study of legal empowerment activities of NGOs in Bangladesh and other countries found a number of positive outcomes, for example, in addressing domestic violence, restraining the practice of dowry, and encouraging women to seek legal redress and participate in local-level decision making.¹⁷⁰ ADB's support for the legal empowerment of women and girls—for instance, through grants to NGOs involved in this work—could also reduce their vulnerability to trafficking. ADB's recent loan to Pakistan for its *Access to Justice Program* is also an important precedent.¹⁷¹ Through this loan, ADB is supporting criminal justice reform, including

Steps for Mainstreaming Trafficking into ADB Operations

- Where possible, flag the issue of trafficking in subregional strategies (e.g., subregional cooperation strategy and program) and country analysis and strategies (e.g., country poverty analysis, country strategy and program and updates, and country gender analysis and strategy).
 - Include the analysis of groups that are particularly vulnerable to trafficking in the initial poverty and social analysis and the full poverty and social analysis. In particular, include mobile populations into the analysis as well as women and children.
 - Develop project designs that would directly and indirectly combat and reduce human trafficking.
 - Identify and work with partners (e.g., ministries, NGOs, private sector including contractors, donors, etc.) to develop and implement antitrafficking project components.
 - Where nonlending products and services (e.g., technical assistance and sector and thematic works) provide opportunities, consider addressing trafficking.
 - Raise awareness among relevant ADB staff including dissemination of findings of the reports produced under regional technical assistance through various means such as: (a) publication, external website, and relevant committees and networks; (b) developing pilot projects with the initiatives of Regional Departments in collaboration with the Poverty Reduction and Social Development Division; and c) developing guidelines and good practices on contractors' codes of conduct and loan covenants in collaboration with the Project Coordination and Procurement Division and Office of the General Counsel.
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¹⁷⁰ TA 5856-REG: *Legal Literacy for Supporting Governance*, for \$500,000, approved on 24 August 1999. p. 145.

¹⁷¹ Loan No. 1897-PAK, for \$243.2 million, and Loan No. 1898-PAK, for \$86.8 million, approved on 20 December 2001.

gender sensitivity training for police forces and the establishment of a legal empowerment fund to advocate for the rights of women and other disadvantaged groups. Similar program lending could be provided to improve the effectiveness of law enforcement agencies in combating human trafficking, including measures to reduce police corruption and protect trafficking survivors. In addition, through its support for private sector development and corporate governance, ADB could promote codes of conduct among firms and business associations to encourage better compliance with core labor standards and national labor laws, and thereby address one of the strong “demand” factors in the human trafficking equation.

6.3 Regional and Subregional Cooperation

For many years, ADB has recognized the benefits of cooperation among countries in the Asia and Pacific region, and has supported both regional and subregional cooperation through various initiatives. The oldest of these initiatives is in the Greater Mekong Subregion (GMS), which includes Cambodia, People’s Republic of China, Lao People’s Democratic Republic, Myanmar, Thailand, and Viet Nam. More recent initiatives have supported various groupings of countries in Southeast Asia and the Pacific, as well as Central Asian Regional Economic Cooperation and South Asia Subregional Economic Cooperation (SASEC). Both ADB’s Poverty Reduction Strategy¹⁷² and Long-Term Strategic Framework¹⁷³ have identified regional cooperation as a key vehicle for promoting poverty reduction and economic development.

ADB’s commitment to regional and subregional cooperation is reflected most recently in a special thematic chapter in its *2001 Annual Report*. The chapter notes the increasing importance of regional integration and cooperation on shared issues to address the forces and consequences of globalization. The chapter also highlights the various dimensions of regional cooperation in Asia and the Pacific, which include not only economic integration, but also cooperation in the areas of social development and social protection, environmental protection and natural resource management, and crime prevention—including regional efforts

¹⁷² ADB. 1999. R179-99: *Fighting Poverty in Asia and the Pacific: The Poverty Reduction Strategy of the Asian Development Bank*, 19 October 1999.

¹⁷³ ADB. 2001. Sec.M17-01: *Long-Term Strategic Framework of Asian Development Bank (2001-2015)*, 21 February.

to combat trafficking of people, especially women and children.

6.3.1 South Asia Subregional Economic Cooperation

Since 1997, ADB has been promoting subregional cooperation in South Asia, most recently through technical assistance for SASEC, involving Bangladesh, Bhutan, India, and Nepal.¹⁷⁴ Through SASEC, ADB has supported the formation of working groups composed of government officials from the four countries to identify possible subprojects in several sectors selected by the participating governments: tourism; transport; trade/investment/private-sector cooperation; energy/power; environment; and information and communication technology. Through the working group process, potential subprojects for bilateral or subregional cooperation have been identified in the transport and energy sectors, and proposals are being formulated for the tourism, trade/investment, and other sectors.

6.3.2 Recommendations

Integrating Trafficking Concerns: Although SASEC is a fairly young initiative, opportunities are already apparent for mainstreaming trafficking and related social development concerns into the design of subprojects and other forms of subregional cooperation. In the transport sector, for example, the good practices supported by ADB, other development agencies, and NGOs in recent highway projects in South Asia can and should be extended to regional transport projects under SASEC. For example, these good practices have included an assessment of the needs of female road workers—who constitute 40% of the road construction workforce in Bhutan—to improve their working conditions and access to basic services for them and their children.¹⁷⁵

In highway projects in India, ADB has partnered with executing agencies and funding agencies such as the United Kingdom's DFID to support information campaigns about the risks of STD transmission for road construction workers and road users.¹⁷⁶ Such risks also appears to have been abated by changes in state government regulations of truckers' work hours: by decreasing the number of hours that truckers can work in

¹⁷⁴ TA 6010-REG: *South Asia Subregional Economic Cooperation II*, for \$500,000, approved on 13 December 2001.

¹⁷⁵ Loan No. 1763-BHU: *Road Improvement*, for \$9.6 million, approved on 3 October 2000.

¹⁷⁶ Loan No. 1839-IND: *Western Transport Corridor*, for \$240 million, approved on 20 September 2001; Loan No. 1870-IND: *West Bengal Corridor Development*, for \$210 million, approved on 11 December 2001.

a given period, the state government of Maharashtra improved highway safety and also reduced truckers' time away from home (and therefore the likelihood that the truckers would patronize commercial sex workers along the trucking route).

The country reports for this RETA also include examples of innovative NGO programs to establish and manage information booths at border crossings, bus terminals, and other transit stops to provide safe-migration information and assistance to travelers, especially women. Likewise, in the manufacturing and tourism sectors, there are opportunities to develop and promote recruitment guidelines and codes of conduct for industry associations to encourage fair labor practices and address the problems of trafficking and sexual exploitation of workers. These examples point to the possibility of addressing concerns about human trafficking through both subregional policy dialogue and subregional project development in key economic sectors.

Assessing Impacts on Vulnerabilities: The findings of this RETA illuminate the extent of migration and trafficking of persons within South Asia, and identify a number of vulnerabilities of high-risk groups, including in particular women and children from ethnic minorities and lower castes or classes, to trafficking. Under these circumstances, the preparation phase of any subregional construction project should include careful consideration of the possible impacts of the project on local populations—including employment opportunities for both men and women, but also the risks that adolescent girls and children may be trafficked into the project area for sex work or child labor. Where it appears that migrant workers will be hired under the project, steps should also be taken to ensure that they are treated fairly and are not subject to exploitative conditions. The terms of reference of the construction supervision consultant could be expanded to include monitoring of these aspects of the project. A code of conduct for construction workers under the project could also be useful. Social impact analysis and development of mitigation measures should also be carried out for investment projects in service sectors, such as tourism.

Links to Social Development Issues in South Asia Subregion: The findings of this RETA also suggest that ADB could play a valuable role in supporting subregional cooperation in the areas of social development, social protection, and migration management, which could address some of the factors that encourage trafficking. For example:

- A regional study could be designed to assess the technical skills needs in selected sectors, to identify appropriate technical schools

in the region, and to harmonize accreditation requirements for technicians across countries. Particular attention could be paid to ensure that the skills training programs would be accessible to young women, and that the resulting accreditation would satisfy emigration requirements (such as Bangladesh's current policy of restricting emigration of unskilled women workers).

- In the area of social protection, a regional study could also be commissioned to examine gaps and disparities in the social safety nets established for workers and their families in South Asian countries, and to recommend public and private mechanisms for strengthening and harmonizing these protections.
- In the area of migration management, a regional study could be developed to analyze worker migration patterns within the subregion (including both regular and irregular migrants), and to recommend mechanisms for regularizing migration and improving migration safety.

These proposals are based loosely on regional studies that have been commissioned through the Working Group on Human Resources Development for the GMS. Although a social or human development working group has not yet been established under SASEC, similar initiatives could be supported through the general allocation of grant funds for subregional cooperation activities in South Asia. These initiatives could form part of a social protection strategy for the subregion. There are also opportunities for mainstreaming trafficking concerns in an ongoing RETA¹⁷⁷ for example, by encouraging locally elected women representatives to promote community awareness of trafficking and safe migration training.

6.4 Country Level

6.4.1 Country Poverty Analysis and Poverty Reduction Partnership Agreement

The country poverty analysis is a diagnostic tool used to provide a set of strategic options to assist in determining the mutually agreed goals of ADB assistance with a partner developing member country¹⁷⁸ as set

¹⁷⁷ TA 6008-REG: Gender and Governance Issues in Local Government, for \$600,000, approved on 4 December 2001.

¹⁷⁸ Drawn from *Handbook on Poverty and Social Analysis*, Section II, p. 2-4.

out in the poverty partnership agreement (PPA) and used to guide the ADB CSP. As such, this analysis identifies the characteristics and causes of poverty in a specific country as well as opportunities and constraints for poverty reduction initiatives. The findings also assess where there are gaps in information and suggest where specific studies can be carried out, or areas where government might be required to develop and provide additional information.

This process provides an opportunity to bring trafficking issues into the analysis as potential outcomes from vulnerabilities faced by the poor—particularly women and children. The interplay between policies such as trade, labor, and migration/mobility issues can be incorporated into the overall assessments (for example in the labor market profile), as well as the risks and vulnerabilities profiles suggested in the *Handbook on Poverty and Social Analysis* and *Handbook on Resettlement*. Despite the scope of trafficking and its harmful impacts on the development process in South Asia, governments do not ordinarily establish these links in their own policy processes, and ADB’s analysis could provide leadership in mainstreaming trafficking into this type of overall poverty assessment.

6.4.2 Country Strategy and Program

While combating trafficking is not articulated as a specific objective in any CSP in South Asia or within any project, as discussed in the preceding sections, strategic approaches to poverty reduction can make effective contributions through targeting those most vulnerable to trafficking and ensuring they benefit from project activities; ensuring that ADB operations do not contribute to pushing people into migration and hence vulnerability to trafficking; encouraging safe migration; and, assisting in efforts to stem demand for trafficked labor. Achieving progress on poverty reduction and equitable economic growth goals will reduce vulnerabilities to trafficking identified in this RETA—particularly a reduction in the degree of social exclusion faced by women and other disadvantaged groups.

Project implementers might not have the technical capacities or contractual flexibility to add components suggested in the sections below. NGOs specializing in combating trafficking are active in many areas of South Asia and can be approached to partner with ADB projects for awareness-raising activities or to assist project implementers in identifying who is the most vulnerable to trafficking within a specific community. ADB project components can be used as a platform to broaden the scope

of existing activities without additional funds required. Government counterpart agencies and departments can be encouraged through dialogue with ADB to consider potential links with trafficking, and how these concerns can be mainstreamed into their operations.

ADB also strongly supports gender equality and the empowerment of women as a key facet of poverty reduction. As the work to combat trafficking has demonstrated, gender-based exclusion from development resources and basic needs creates great vulnerability for women and girls to being caught up in trafficking. These same factors also perpetuate the conditions that limit their life options and increase their difficulty to move out of poverty. Empowering women through economic and human capital investments can also facilitate their participation in shaping governance mechanisms to protect women and children from trafficking (e.g., police protection and prosecution of traffickers).

6.5 Project-Level Poverty and Social Analysis

Some general guidelines can be applied during the project preparation process to ensure that links to trafficking and safe migration and any potential to contribute to combating trafficking is identified. The technical assistance fact-finding stage of project preparation provides an opportunity to incorporate trafficking concerns in the IPSA. Additional information and data under the risks and vulnerability profile should be incorporated concerning those most exposed to trafficking. This will point to areas for more detailed investigation during the full PSA at the project design stages.

Guide for Integrating Trafficking Concerns into ADB Operations provides examples of how sector-based ADB-supported activities might contribute to combating trafficking and facilitating safe migration, including suggestions for specific components often incorporated into each sector of activity. These potential contributions can be considered during the feasibility and preparation stages of projects, or links can be made with NGOs or government programming already underway in areas where the project is being implemented. Other donors are also actively involved in many similar activities where ADB is already implementing operations. Components to combat trafficking might be directly linked to existing project activities.

6.6 Policy Dialogue

Policy dialogue concerning trafficking and safe migration can also be incorporated into thematic priority areas.

6.6.1 Gender and Development

As identified in the analysis of the dynamics of trafficking, the low status of women and their exclusion from development opportunities intensify the risks women face. Any support that is provided by government or other development programs to increase women's access to and control of assets and other resources can contribute to reducing their risk not only to trafficking but also to many other harmful situations—for example gender-based violence.

As identified in the **Nepal** CSP, all efforts to close the gender gap “are likely to remain limited unless the gender bias in the social system is reduced, if not eliminated.”¹⁷⁹ Consequently it is proposed that the gender strategy for Nepal and other South Asian counterparts include not only integration of gender and development concerns into projects, but also into assistance to policy support, capacity building, and awareness raising.

ADB could take leadership in demonstrating how poverty reduction programming that is built on women's empowerment can have impacts that include reducing risks to harms such as trafficking. This could be done by tracking trafficking risk indicators in ADB's loan projects and bringing this information into policy dialogue on many issues. Links between women's empowerment in the workplace, safe migration policies that facilitate women's migration without negative impacts such as trafficking, and poverty reduction can be made.

6.6.2 Private Sector Development

Improving corporate governance and corporate responsibility for labor conditions within their operations could be incorporated into capacity building and policy development in these areas. This has already been identified in the recent ADB/ILO RETA on Labor Standards. As identified in the sections above, while many agencies and organizations are investing a great deal of funds and efforts in preventing trafficking

¹⁷⁹ ADB. 2001. *Country Strategy and Program Update (2002-2004)*, Nepal, p. 4.

and address its effects on the survivors, few are seriously addressing the demand for trafficked labor. ILO is working with its private sector partners to reduce the use of child labor, and trafficked labor is a specific category in their campaigns and awareness programs.

Support to ILO from ADB would contribute to combating trafficking, especially associated with ADB projects to support small and medium enterprises. Increasing an understanding of mechanisms that could be used to discourage the use and exploitation of trafficked labor in the informal sector and among small and medium enterprises could contribute significantly to combating trafficking. Leadership can be taken by ADB by visibly monitoring codes of conduct incorporated into contracts with construction contractors and other supplies for ADB operations. These examples could be used to illustrate how other mechanisms might be adopted to strengthen corporate responsibility to limit illegal labor exploitation and to build capacities among appropriate government departments to monitor these issues in sectors such as export-processing zones, garment and carpet manufacturing, etc. Skill training in nontraditional areas for women can also provide additional opportunities to ensure that women can enter expanding sectors through formal entry points rather than being forced to take low-skilled, casual employment opportunities in informal sectors.

6.6.3 Governance

ADB's continued support for the implementation of the decentralization process offers great potential to build accountability from all levels of government to address human trafficking. Support could be extended in areas such as:

- Capacity building for women elected officials at local and national government levels to encourage their leadership in combating trafficking and understanding links between poverty reduction and building resistance to trafficking;
- Capacity building with municipal government to develop and implement measures to ensure migrant and mobile populations have access to services and economic opportunities and hence reduce their vulnerability to risks such as trafficking;
- Implementing government-sponsored programs to increase birth and marriage registration—a key step in enabling rights of children to be protected, to improve delivery of basic services,

and to track and monitor population movements through issuing identity cards and/or passports; and

- Promoting improved enforcement of existing legislation to combat trafficking. Other funders are supporting police training, awareness among community political leaders, but ADB could reinforce these efforts by raising human trafficking concerns at higher levels in discussions regarding accountability and transparency of local government mechanisms.

6.6.4 Regional Cooperation

Links exist between vulnerabilities to trafficking and regional cooperation activities supported by ADB. These include the impact of improved road networks across borders between Bangladesh, India, and Nepal, along which the vast majority of trafficking women and children travel. Some of the road corridor improvement project activities already underway in **Bangladesh** have considered additional activities such as including information booths at bus shelters close to the border for those seeking help to return home. Other activities like this could be considered along the Bangladesh-India border crossings.

Some activists argue that improving road connections actually drives traffickers further off to rural and remote roads, so the assumption that if the road and transport services improve, so will the flow of traffickers does not necessarily hold true. However, ADB might consider carrying out a more detailed analysis of what the impacts might be along these major transportation corridors.

6.6.5 Aid Agency Cooperation

At the recent South Asia Regional Consultation prior to the Second World Congress Against Commercial Sexual Exploitation of Children held in Yokohama in 2001, many stakeholders raised the importance of development programming—at national levels and among donor agencies—targeting of poverty reduction programming to areas known to have high incidence of trafficking, or to address the specific needs of those most vulnerable. One way to improve a targeted approach is to increase aid agency cooperation. As has been demonstrated in Nepal and Bangladesh through the Inter-Agency Coordination Group on Trafficking and other fora, the exchange of information is an important first step in this direction.

ADB could participate more fully in this type of forum, and in identifying aspects of the NPA it could provide support, not necessarily through stand-alone antitrafficking projects, but through the linking of existing poverty reduction programming, e.g., rural credit programs, water and sanitation projects, etc. Other agencies and international NGO/NGO networks could assist ADB in identifying NGOs with capacities to bring ongoing antitrafficking activities to project areas and to coordinate with project implementers on suitable timing and locations for activities.

APPENDIX 1

ACKNOWLEDGMENTS

This report was prepared by the regional technical assistance (RETA) Team led by Helen Thomas of Agriteam Canada. The team comprised six members across the region: Nandini Azad from the Independent Commission for People's Rights and Development in India; in partnership with the South Asia Regional Office for the International Organization for Migration (IOM), Rina Sen Gupta and Ishrat Shamim from the Centre for Women and Children Studies in Bangladesh; and Gopal Krishna Siwakoti and Pranita Thapa from the International Institute for Human Rights, Environment and Development (INHURED International) in Nepal. Eugenia McGill prepared the paper concerning legal frameworks and issues for the RETA. Many stakeholders also made contributions during interviews, by providing materials and attending the national consultation workshops held in March and April 2002 in all three countries and the Regional Workshop held in Manila in May 2002.

Invaluable support was also provided to the RETA Team by the government focal points in each participating country. In particular, Ms. Veena Rao, Joint Secretary at the Department of Women and Child Development (DWCD), Government of India and Mr. P.G. Dhar Chakrabarti, Joint Secretary, DWCD under the leadership of the Secretary, Dr. R.V. Vaidyanatha Ayyar, who gave the team much of his valuable time and advice; Ms. Ferdous Ara Begum, Joint Secretary, Ministry of Women and Children Affairs, Government of Bangladesh; and Mr. Pratap Pathak, Joint Secretary, Ministry of Women, Children and Social Welfare, Government of Nepal.

The RETA was initiated by the Poverty Reduction and Social Development Division (RSPR), Regional and Sustainable Development Department, ADB, and funded through the Japan Special Fund. Sonomi Tanaka, Social Development Specialist, was the project officer and worked closely with the RETA Team, providing guidance and direction throughout RETA implementation and preparation of the final reports and the publication. Brahm Prakash, Director, RSPR and Shireen Lateef, Principal Social Development Specialist, also provided guidance throughout RETA implementation. The two publication volumes were edited by Helen Thomas and Laura Harries. Final editing and production assistance was provided by Ma. Celeste Grace A. Saniel-Gois and Zarah M. Zafra, and proofreading by Lily Bernal.

APPENDIX 2

SUMMARY OF REGIONAL WORKSHOP PROCEEDINGS

MANILA, PHILIPPINES

ADB HEADQUARTERS

27-29 MAY 2002

The Regional Workshop was the final activity under the year-long Regional Technical Assistance (RETA) Project 5948, Combating Trafficking of Women and Children in South Asia. The objectives of this Workshop were:

- To review findings from each of the RETA country papers, the Legal Frameworks paper, and the Regional Synthesis Report;
- To draw on the experiences and ideas of the participants to bring greater clarity and comprehensiveness to the RETA outputs; and
- To facilitate exchanges among participants at the workshop.

A broad range of stakeholders were brought together for 3 days of discussion among participants and with ADB staff, as well as an opportunity to visit related programs in Manila. Participants included government and nongovernment organization (NGO) representatives from each of the three RETA countries, representatives from regional multilateral and bilateral funding agencies supporting antitrafficking programs, as well as stakeholders from Philippines and Thailand.

The RETA Team presented findings from the RETA outputs, comments were provided by panelists, and plenary sessions offered opportunities for open discussions. Final recommendations were discussed in groups during the last day of the Workshop and commitments from the Asian Development Bank (ADB) to mainstream trafficking concerns into their operations were reinforced by senior ADB staff. Participants provided excellent and detailed suggestions to strengthen the RETA outputs and the discussions pointed to where priorities for future actions should lie.

The following were the overall findings from the Workshop:

- Four areas were identified where ADB might contribute both directly and indirectly to combating trafficking: through mainstreaming antitrafficking initiatives into its poverty reduction projects; when ADB projects are likely to disrupt communities or cause involuntary migration, ensuring that mitigation measures are taken to specifically limit vulnerabilities to trafficking; promoting safe migration initiatives when appropriate in projects or through policy dialogue; monitoring implementation of core labor standards by ADB contractors to ensure trafficked labor is not used or drawn into the provision of services on the margins of project sites.
- There is significant endorsement and support from all stakeholders in South Asia for ADB's initiative to mainstream trafficking concerns in poverty reduction activities. The challenge now lies in broadening this approach beyond ADB to other agencies, and for antitrafficking stakeholders to advocate among the developing member country governments and civil society organizations to facilitate and support these efforts.

Adopting a mainstreaming approach, however, also requires a clearer understanding of the complex dynamics of trafficking, its links to migration, the need for improved governance structures, and mechanisms to target poverty reduction efforts more effectively to those most at risk—including the poorest of the poor. The following aspects of trafficking in particular require further analysis:

- Conceptualizing trafficking in the context of migration and mobility;
- Understanding the entire economy of trafficking and its impacts on economic growth and poverty reduction on a regional as well as national basis; and
- The central role that gender inequalities play in creating and perpetuating the vulnerabilities and risks women and children face to being trafficked.

Other priorities that emerged during discussions include:

- The need to continue to support regional initiatives and follow up on South Asian Association for Regional Cooperation (SAARC) Convention commitments—ADB was identified as having particular value-added to bring to these efforts as a multilateral

agency already focusing on regional economic growth and security issues in South Asia;

- Providing direct as well as indirect support to prevention of trafficking is important. ADB has potential for both approaches. For example, infrastructure projects provide opportunities for direct support such as including shelter homes or other facilities for service delivery to migrants and trafficked persons as roads are upgraded. Examples of important indirect initiatives include increasing affordable and accessible housing stocks in slum areas for recent “rural” migrants that would considerably reduce their vulnerabilities to trafficking;
- Curbing demand for trafficked labor of all types was identified as an area that requires much greater attention and support. More effective implementation of core labor standards was identified as one mechanism, both within ADB operations, and more broadly. However, caution was expressed that the implementation of core labor standards is not used as a means to restrict trade or investment opportunities, as has been the case from some bilateral agencies; and
- Improving the capacity of law enforcement agencies to limit the operations of traffickers, and rethinking and strengthening repatriation and reintegration programs were raised as two other priority areas. The complexity of the dynamics of trafficking was reinforced as discussions of the most effective or strategic approaches to these issues demonstrated how some initiatives can ultimately lead to unintended outcomes.

Examples included:

- The need to protect migrants while ensuring freedom to migrate even for those most at risk to being trafficked, i.e., women and children—migration has the potential for vital and positive outcomes as well as negative ones such as exploitation and trafficking;
- How to provide services for those with HIV/AIDS without further stigmatization;
- Using community surveillance to identify traffickers and support enforcement efforts, but without implicating the innocent or newcomers in a community; and
- Providing protection to returning trafficked victims without limiting their options.

It was concluded that efforts by ADB to address these issues must be realistically placed within its capacities and potential to bring value-added to initiatives already underway. As ADB seeks to implement the recommendations from this RETA, partnerships with organizations with the necessary technical capacities and experiences will be encouraged and collaboration with existing networks and interagency fora sought. The RETA outputs will be disseminated internally at ADB and awareness of its commitment to address trafficking will be raised through discussions and dialogue with stakeholders in member countries.

REGIONAL WORKSHOP PROGRAM

Day 1	(Monday, 27 May 2002)
9:00–9:25	Inauguration: Combating Trafficking through Poverty Reduction <i>Chair: Brahm Prakash, Director, Poverty Reduction and Social Development Division, (RSPR), Regional and Sustainable Development Department (RSDD), Asian Development Bank (ADB)</i>
9:00–9:05	Welcome Remarks <i>Akira Seki, Director General, Regional and Sustainable Development Department, ADB</i>
9:05–9:25	Opening Remarks <i>Joseph B. Eichenberger, Vice President, Operations Group 2, ADB</i>
9:25–10:00	Group Photo and Tea Break
10:00–11:40	Session 1: Overview and India Country Study <i>Chair: Brahm Prakash, Director, RSPR, RSDD</i>
10:00–10:30	Overall Framework of RETA 5948 <i>Helen Thomas, Team Leader, RETA 5948</i>
10:30–11:00	Key Findings of India Country Study <i>Nandini Azad, India National Consultant, RETA 5948</i>
11:00–11:40	Comments by the Panel and Plenary Discussion Panels: <ul style="list-style-type: none"> – P.G. Chakraborty, Joint Secretary, Department of Women and Child Development, Ministry of Human Resource Development, India – R.K. Singh, Joint Secretary, Ministry of Home Affairs (C.S.), India – Preeti Patkar, PRERNA, Mumbai, India
12:00–1:30	Lunch (Private Dining Rooms 2 and 3)

1:30–2:30 Session 2: Bangladesh Country Study

Chair: *Edward Haugh, Director, Social Sectors
Division, South Asia Department, ADB*

1:30–1:50 Key Findings of Bangladesh Country Study
Rina Sen Gupta, Bangladesh National Consultant,
RETA 5948; National Program Officer, International
Organization for Migration ((IOM)

1:50–2:30 Comments by the Panel and Plenary Discussion
Panels:

- Ferdous Ara Begum, Joint Secretary, Ministry of
Women and Children Affairs
- Mizanur Rahman, Project Director, Nationwide
Campaign for Prevention of Trafficking in
Children and Women (NCPTCW) Project, Action
Against Trafficking and Sexual Exploitation of
Children (ATSEC) - Bangladesh Chapter

2:30–3:00 Tea Break (and logistical arrangements)

3:00–4:40 Session 3: Nepal Country Study and Wrap-up of Day 1

Chair: *Frederick Roche, Director, Agriculture,
Environment and Natural Resources Division,
South Asia Department, ADB*

3:00–3:20 Key Findings of Nepal Country Study
Gopal Krishna Siwakoti, Nepal National Consultant,
RETA 5948

3:20–4:00 Comments by the Panel and Plenary Discussion
Panels:

- Pratak Pathak, Joint Secretary, Ministry of Women,
Children, and Social Welfare
- Madhavi Singh, Project Coordinator, National
Network Against Girl Trafficking (NNAGT)

4:00–4:40 Wrap-up of the Day (Plenary Session)
Helen Thomas, Team Leader, RETA 5948

5:30–7:00 Reception (Hosted by Director General, RSDD)
(ADB Private Dining Rooms 2 and 3)

Day 2 (Tuesday, 28 May 2002)

- 9:00–9:40 *Special Session: Antitrafficking Activities by Key Donors in South Asia and Multi-Stakeholder Approach in Thailand*
- Chair: *Shireen Lateef, Principal Social Development Specialist, Poverty Reduction and Social Development Division, ADB*
- UNIFEM South Asia Regional Office
 - UNDP Regional HIV/AIDS Development Program
 - ILO-IPEC, Manila Office
 - “The Path Towards Bilateral Cooperation in the Greater Mekong Sub-region” by H.E. Khun Sienoi Kashemasanta Na Ayuddhaya, Secretary General, National Youth Bureau, Thailand
- 9:40–9:50 Tea Break
- 9:50–11:20 Session 4: Addressing Trafficking Concerns in Key ADB Sectors**
- Chair: *Tadashi Kondo, Director, Infrastructure Division, South Asia Department, ADB*
- 9:50–10:40 Case Study Presentations
- Monitoring Bangalore Highway
Hema Bedi, Director, Society to Help Rural Empowerment and Education (STHREE), Andhra Pradesh, India
- Potential Components for Urban Infrastructure Projects
Ferdousi Sultana, Gender Specialist, Bangladesh Resident Mission, ADB
- Reducing Vulnerability of Migrants
Renu Rajbhandari, Women’s Rehabilitation Centre (WOREC), Nepal
- 10:40–11:20 Questions and Discussions
- 11:20–12:00 Lunch (Private Dining Rooms 2 and 3)

12:00–5:00 Field Visit

Group A: Reducing Vulnerability through Migration Management

- Group A will visit the Overseas Workers Welfare Administration (OWWA) in Pasay City to learn about its safe migration training programs and reintegration programs of returnees run by NGOs.
- Group Leader: *Helen Thomas, Team Leader, RETA 5948*
- Partner Organizations: *OWWA, Philippine Overseas Employment Agency (POEA), NGOs, IOM Manila*

Group B: Rescue and Repatriation at Manila Sea Port

- Group B will visit Half-Way House at the Port of Manila (North Harbor) and learn about their government-NGO-private sector collaboration for rescue and repatriation operations.
- Group Leader: *Sonomi Tanaka, ADB Coordinator, RETA 5948*
- Partner Organizations: *Philippines Port Authority, Visayan Forum; ILO/IPEC Manila*

Day 3 (Wednesday, 29 May 2002)

9:00–9:20 Review of Day 2

Two Rapporteurs on the Field Trips:

- Group A: *Mizanur Rahman, NCPTCW, ATSEC*
- Group B: *Roop Sen, SANLAAP, India*

Presentations by NGOs

- *Pooja Mijar, President, Shakti Samuha (Empowered Women), Nepal*
- *Salima Sarwar, Executive Director, Association for Community Development, Bangladesh*

9:20–10:50 Session 5: Regional Cooperation and Legal Issues

Chair: *Cedric Saldanha, Senior Director,*

*Governance and Regional Cooperation Division,
RSDD, ADB*

9:20–9:40 Key Findings of the Regional Synthesis Paper
Helen Thomas, Team Leader, RETA 5948

9:40–10:00 Key Findings of the Regional and Legal Study
Eugenia McGill, Consultant, RETA 5948

10:00–10:50 Comments by the Panel and Plenary Discussion
Panels:

- Govinda Prasad Thapa, Assistant Inspector General of Police, Nepal
- Philip Daltrop, Assistant General Counsel, ADB

10:50–11:10 Tea Break

11:10–12:15 **Continuation from Session 4**

Sectoral Guidelines and Dissemination Strategy in:

- Agriculture and Rural Development
- Education, Health, and Social Protection
- Roads and Telecommunications
- Urban Development

Summary of Sector Issues

Helen Thomas, Team Leader, RETA 5948

12:15–1:00 Lunch (Private Dining Rooms 2 and 3)

Session 6: Next Steps – Recommendations for ADB and Key Stakeholders

1:00–2:00 Introduction and Group Discussion (Display Room and Briefing Room)

Group 1: Empowerment of Women and Girls

Facilitator: Manoshi Mitra, Agriculture, Environment and Natural Resources Division, Mekong Department, ADB

Group 2: Labor Standards

Facilitator: Isabel Ortiz, RSPR, RSDD, ADB

Group 3: Governance

Facilitator: Claudia Buentjen, Governance and Regional Cooperation Division, RSDD, ADB

- 2:00–3:00 Presentation of Group Work and Plenary Discussions
Chair: *Brahm Prakash, Director, RSPR, RSDD, ADB*
- 3:00–3:20 Summing up the Recommendations
Helen Thomas, Team Leader, RETA 5948
- 3:20–3:30 Closing Remarks**
*Yoshihiro Iwasaki, Director General, South Asia
Department, ADB*

REGIONAL WORKSHOP – LIST OF PARTICIPANTS

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APPENDIX 3

EXPOSURE VISIT TO THAILAND

15-19 MAY 2002

Summary of Findings

Under the framework of the Regional Technical Assistance (RETA) 5948, Combating Trafficking of Women and Children in South Asia, an Exposure Visit to Thailand took place during 15-19 May 2002. The delegation comprised nine government representatives (three each from Bangladesh, India, and Nepal) and one nongovernment organization (NGO) representative from Bangladesh and was led by the RETA Team Leader, Helen Thomas. The RETA National Consultant from Bangladesh, who is also the National Program Officer at the South Asia regional office of the International Organization for Migration (IOM), and a representative from the India Office of UNICEF also participated. The objectives of the Exposure Visit were:

- To discuss and exchange information, lessons learned, and good practices with Cambodian and Thai counterparts regarding recent experiences in improving repatriation procedures to combat trafficking of women and children in the Greater Mekong Subregion (GMS); and
- Through exchanges of information and experiences among South Asian delegates, to build greater understanding across the region of shared concerns and potential areas for future collaboration.

The delegation met with a range of stakeholders that included representatives from the National Committee on Coordination on Combating Trafficking of Children and Women, under the chair of the National Youth Bureau; Thai provincial-level government and NGO officials involved in implementing internal memorandums of understanding (MOUs); a counterpart representative from the Cambodian Ministry of Women and Veterans Affairs, a focal point for combating trafficking. The delegation also had an opportunity to tour two shelter homes (one government-run and one NGO-run) that apply the principles and guidelines set out in the recent MOUs. Opportunities for exchanges

among South Asia participants were guided by Prof. Vitit Muntabhorn (world expert on international law, children's rights, and trafficking) who explored how lessons learned from the GMS can be applied to South Asian context and assisted in identifying common priorities and entry points for future collaboration among participating South Asian countries.

The design and organization of these sessions would not have been possible without considerable support and guidance from National Youth Bureau, Government of Thailand and Dr. Saisuree Chutikul. The IOM Regional Office in Bangkok also provided invaluable assistance during the planning stages and at times contributed their perspective on trafficking concerns during several sessions.

The main issues covered during the Exposure Visit were:

- (i) The South Asian Association for Regional Cooperation (SAARC) Convention on Trafficking, which is now in place and provides a unique opportunity to move forward on repatriation issues in South Asia. These opportunities were compared to the experiences of GMS, where there is no similar treaty in place.
- (ii) Elements of MOUs already signed or under negotiation, within Thailand and between Thai and Cambodian governments, including:
 - *Victim's needs come first* is the central principle on which the agreements were based. Shifting to this approach requires significant changes in attitudes, particularly for police and immigration officers for whom security is the primary goal.
 - *Criminal prosecution* is also an important objective that must not be hindered by victims being forced to leave Thailand—therefore mechanisms must be put in place so that victims are enabled to take out criminal cases before they are repatriated.
 - Improved *migration management* must be part of the policy and regulatory context in which the MOU is set.
 - *Organizational and institutional structures* must be in place to respond to the wide range of needs of victims, and the resources available to ensure these needs are met (e.g., medical services provided while they await repatriation etc.).
 - *Broadbased support* to development and implementation of the MOUs, which in Thailand led to a series of three

- separate MOUs being developed—among government departments, between government and NGOs, and among NGOs themselves.
- *Monitoring mechanisms* must be in place so that new lines of accountability are taken up and gaps in the mechanisms are addressed.
- (iii) Many changes to the existing processes and procedures for several government organizations had to be made, to achieve MOU objectives, building on what exists in some cases and in others restructuring. These changes also meant NGOs had to readjust their own approaches and links with government agencies.
 - (iv) Commitment to make these changes requires strong political will and leadership from key stakeholders to keep pushing the process forward.
 - (v) Many stakeholders identified as a key priority the orderly repatriation of trafficked persons with clear lines of accountability among a broad range of stakeholders. The MOUs provide that structure, and as they are signed by all partners, provide strong commitment from the participating agencies and NGOs.
 - (vi) Collaboration and compromise is necessary among all stakeholders for the MOUs to be developed, negotiated, and effectively implemented.
 - (vii) The first steps are to start with rationalizing internal/national organizational structures before looking outwards to other countries, i.e., to have appropriate structures in place where possible before real change can be brought about.
 - (viii) If infrastructures are in place and accountabilities clear, changes do not necessarily need legislated regulation, rather collaborative monitoring and shared goals (i.e., victim-focused procedures and prosecution of criminals).
 - (ix) Related policies and regulations have to be linked and revised, particularly concerning other aspects of migration management. For example, in Thailand an amnesty was issued recently for certain categories of illegal migrants, which has meant many thousands of migrants are now less vulnerable to traffickers. Regulations have also been revised concerning temporary workers that have made it easier to define differences between trafficked victims and illegal and irregular migrants.

- (x) The demand side of the trafficking cycle also has to be addressed through measures such as: improved migration management that seeks to meet the need for labor while increasing penalties for use of trafficked and child labor; and extra-territorial prosecution of sex tourists who have contravened Thai law.
- (xi) The MOU has to be flexible, allowing for revisions as implementation is under way.
- (xii) It was argued that, if stakeholders can demonstrate they are improving the process of repatriation through MOU mechanisms, it might be possible to leverage more funding from government and external funding agencies.
- (xiii) The importance of birth registration was stressed by immigration officers, as it makes the issuance of travel documents, tracking of missing persons, etc. easier.

Follow-up actions discussed by participants included:

- Applying the approaches modeled in the GMS and Thai MOU process in their own context—several participants committed to start with broadening awareness of the need for a multisectoral, holistic approach involving many different government and NGO actors. This applies at the regional as well as national levels.
- Participants recognized the importance of putting the needs of the trafficked persons first, and will work to inform others of how this has been achieved through mechanisms such as the MOU in the GMS and will use documents and examples from the Exposure Visit. The experiences presented during the Exposure Visit encouraged participants that such a complex set of activities and mechanisms can be put in place.¹⁸⁰
- Participants identified that infrastructures must be in place; organizational structures but also more shelter homes, trained

¹⁸⁰ On 12 June 2002, the ATSEC Bangladesh Chapter and BNWLA (Executive Director Ms. Salma Ali, who participated in the ADB RETA Exposure Visit) organized an advocacy seminar to promote the development of a bilateral treaty with India for repatriating trafficked children and women in Dhaka. The MWCA Secretary was the chief guest, and Ms. Ferdous Ara Begum (MWCA Joint Secretary who participated in the Exposure Visit and the RETA Regional Workshop) and Mr. Hasib Aziz (Ministry of Foreign Affairs who also attended the Workshop) were the speakers. Based on examples of what they observed at both ADB RETA events, they strongly advocated for the Government of Bangladesh to start the process of development of a bilateral MOU.

staff, etc. and therefore they must work to secure resources to cover these basic requirements, but this is a great challenge. The Government of Bangladesh identified the need to work from the home front first and was committed to starting that process immediately upon their return.¹⁸¹

- Commitments were made to improve the awareness and capacities of enforcement officers as well as women's ministries and social welfare.
- Participants identified the importance of links between combating trafficking and addressing root causes such as poverty. They stressed the importance of mainstreaming trafficking concerns into poverty reduction programming in general, and will work to build this awareness across different agencies, and among other poverty reduction stakeholders.
- IOM¹⁸² and UNICEF also committed to follow-up activities to ensure that the ideas and experiences from the GMS are disseminated to a larger group of stakeholders and to assist trafficking focal points to follow up.

¹⁸¹ See footnote number 1.

¹⁸² IOM organized a meeting with the SAARC Secretary on 27 June 2002 and invited some key players from government, NGOs, and the aid community to discuss the Bangladesh commitment to implementing the SAARC Convention on Anti-Trafficking. Ms. Ferdous Ara Begum and Mr. Hasib Aziz (both participants in RETA activities) also attended.

EXPOSURE VISIT SCHEDULE

14 May 2002 **Arrival of Delegation**

Overnight in Bangkok, Novotel Siam Square

15 May

09:30–10:30 Introductory meeting of participants to discuss agenda, expectations, and objectives of exchange visit, and other logistics.

Facilitator: RETA Team Leader Helen Thomas

Location: Novotel Cezanne Meeting Room, 4th Floor

10:30–12:30 **Overview Presentation**

Trafficking issues and concerns in Greater Mekong Subregion, links to concerns in South Asia, introduction to the process leading to the development of MOUs in Thailand, current status of MOU process, and links to international agreements/commitments.

Presentation and facilitator: Prof. Vitit Muntarbhorn

Location: Novotel Cezanne Meeting Room, 4th Floor

12:30 – 1:30 Lunch – Conference area of Novotel

1:30 Transport from Novotel to National Youth Bureau Conf. Room

12:00 – 5:00 **Panel discussions** with members of the National Committee on Coordination on Combating Trafficking of Children and Women, Session Chaired by the National Youth Bureau. Brief presentations from Thai committee members followed by open discussions exploring the process of developing MOUs, including creation of elements of enabling environment, linkages with broad range of stakeholders, approaches taken in consensus building, and follow-up scenarios

Facilitator: Prof. Vitit Muntarbhorn

Location: NYB Conference Room

- 6:30 Depart hotel for **dinner and cultural event**
 Attended by IOM Regional Representative, Mr. Farooq Azam and Ms. Birgit Jensen from Women and Development Office, ESCAP
- 16 May 2002**
- 06:30 Leave Novotel, Bangkok for border area (departure time to be confirmed)
- 10:00–4:00 **Field trip to Aranyaprathet border area with Cambodia** Hosted by the National Youth Bureau and Thai Provincial Immigration Department for Petchaburi Province to visit Cambodian-Thai border operations and discuss trafficking issues with immigration officials.
- 4:00 Travel to Pattaya and check into hotel
- 17 May 2002**
- 09:00–12:00 **Meetings with selected officials including:**
 Mr. Sanphasit Koompraphant, Secretary, Center for the Protection of Children’s Rights Foundation
 Representatives from police units, immigration, and protection of children, Public Welfare Office
Location: Hotel in Pattaya
- 12:00-1:00 Lunch
- 1:00 Travel to Bangkok
- 3:30 – 6:00 **Meeting with representative** from Cambodian Ministry of Women and Veterans Affairs, H.E. Mrs. You Ay
Location: NYB Conference Room
- 18 May 2002**
- 09:30 –12:30 **Wrap-up meeting** to review findings, achievement of objectives, and next steps for participants
 Facilitator: Prof. Vitit Muntarbhorn
Location: Novotel Meeting Room
- 12:30 – 1:30 Lunch

19 May 2002

- 09:30 Leave Novotel for Bahn Kretrakarn (departure time to be confirmed)
- 10:00 – 12:00 **Field trip to Shelter Homes**
Visit to Bahn Kretrakarn Department of Public Welfare shelter home
- 12:00 – 1:00 Pre-arranged lunch nearby
- 2:00 – 4:00 **Travel to Buddhamonthon**
Visit Centre for the Protection of Children's Rights shelter home
- 4:00 Return to Novotel Siam Square, Bangkok

20 May 2002 Travel

EXPOSURE VISIT PARTICIPANTS

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Deputy Secretary
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Government of Bangladesh

Mr. Md. Ali Sorcar
Director
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Ms. Salma Ali
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Department of Social Welfare
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NEPAL

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TOTAL number of participants:13

APPENDIX 4

SUMMARY OF BANGLADESH WORKSHOP PROCEEDINGS Sonargaon Hotel, Dhaka 7-8 April 2002

1. Inauguration

The MWCA Secretary welcomed participants in his opening remarks, and expressed his support for the ADB regional technical assistance (RETA) to mainstream trafficking concerns into poverty reduction programs in Bangladesh.

2. Working Session I

The findings of the RETA Bangladesh Country Paper were presented to the participants for deliberation. Generally all participants were glad to see ADB addressing social issues such as combating trafficking and agreed that there is extensive scope to mainstream trafficking concerns into large-scale poverty reduction projects and policy dialogue. The following points were raised concerning the Bangladesh Country Paper:

- Great care has to be taken over the use of the concept of “consent” which is now incorporated into the definition adopted by the RETA Team for the paper. It was suggested that clarification be included in the paper regarding this term.
- Tackling third parties who benefit from trafficking was not adequately covered, or the potential for ADB to support enforcement and prosecution efforts in Bangladesh. The RETA Team pointed out that this is not an area where ADB has expertise or experience, and hence the issues were not covered in great depth in the RETA paper.
- Adolescent girls are particularly at risk of being trafficked, and all recommendations for women’s empowerment and mainstreaming empowerment and antitrafficking concerns into

ADB poverty reduction projects must ensure that adolescent girls are also targeted.

- Government ownership is very important and working with a broad range of government agencies should be emphasized. ADB has the potential to bring a wide range of government partners into efforts combating trafficking, e.g., the Local Government Engineering Board, Local Government Division have substantial ADB-supported projects with relevance to combating trafficking.
- In the analysis of causal factors it was suggested that addressing factors that cause migration should not be seen as opportunities to hamper migration, especially for women. It is an important factor in development, e.g., education brings interest in and curiosity about the outside world, and many will leave their communities to seek new opportunities elsewhere. It should also be clearly recognized in the paper that, while the focus is on women and children, men are also trafficked.
- Monitoring indicators were discussed and the need to develop stronger mechanisms to assess comparative effectiveness of different approaches to combating trafficking. The Regional Office of the Population Council in Delhi has indicated its interest to do some work in this area.
- It is important to stress that those most vulnerable to being trafficked are the ultra poor, and most poverty reduction projects fail to reach these groups. It is important that ADB strengthen its efforts to reduce the marginalization of the ultra poor, particularly women.

General discussions followed concerning

- the links of trafficking to migration; and
- the complexities of identifying who is vulnerable and their participation in the development process.

3. Working Session II

Participants broke up into groups to discuss specific good practices that could be incorporated into ongoing ADB-supported projects, and with potential to links to other types of poverty reduction programs (government, NGOs, other funding agencies, etc.) The discussion and recommendations from these groups included:

Project-Level Good Practices:

- Links to trafficking include:
 - transport sector—and increased mobility seen at border areas, terminals, etc.
 - vulnerability of those living around or near construction camps
 - resettlement issues from infrastructure activities
- Linked activities include:
 - microfinance
 - nonformal education/skills training
 - health care
 - women union parishad members taking up leadership
 - awareness—mass campaigns and targeting particular groups, e.g., border officials
 - constructing shelters and seeking NGO partners to manage programs
- Target groups to include:
 - adolescent girls
 - children of hard-core poor
 - female-headed households
 - seasonal migrants

Regional-Level Issues:

- Mechanisms that require strengthening across the region include:
 - migration laws
 - repatriation process
 - prosecution (regional rapporteur, identification of perpetrators)
 - child-friendly courts
- Regional partnership:
 - civil society involved directly with South Asian Association for Regional Cooperation (SAARC)
 - legal practitioners involved in repatriation
 - links between agencies such as the United Nations

- Recommendations to ADB:
 - focus on migrant workers' rights, starting in one sector to include issues such as minimum wages; the right to change jobs; keeping passports
 - negotiations can be through the General Agreement on Tariffs and Trade (GATT), development investments, etc.

The Chair concluded this session by reminding participants that incorporating new ideas into new structures takes time and it is important to prioritize ideas and suggestions. It is also important for ADB to seek its comparative advantage and where progress will be most effective.

4. Working Session III

The final session focused on discussions and recommendations for operational and policy issues. The following steps were recommended for ADB to follow:

- Mapping of geographic areas as well as activities of stakeholders and other potential partners;
- Assessment of who is at risk through social/gender analysis and ensuring that pro-poor programs include those most at risk of being trafficked;
- Increasing awareness and commitment among project implementers and partners (including ADB staff); and
- Monitoring progress.

Discussions of policy issues focused on:

Feminization of poverty and links to trafficking: means to address these concerns include the implementation of the Beijing Platform for Action; the Government of Bangladesh's poverty reduction strategy, and improved migration management. Participants raised concerns about:

- Lack of resources, and while government departments may try to implement mechanisms such as women in development (WID) focal points, there are no resources available to these individuals to carry out their mandates effectively.
- Migration management issues such as including women migrants in programming, overseas workers' welfare (including efforts to

lobby for their rights to be respected by destination countries), and smoother remittance of income earned. Improvements in all these areas would assist in combating trafficking, especially concerning women. The Government raised concerns that women are not well prepared for migrating and have poor skills. It is proposed that once their skills have been improved they will be permitted to migrate, as problems are more likely to occur for unskilled women. However, as several participants pointed out, women are migrating anyway, but under dangerous circumstances as the Government will not provide protection if they leave illegally.

Addressing demand-side concerns: areas suggested included strengthening application of labor standards. ADB could contribute considerably by

- Ensuring that ADB-financed contractors respect labor standards, employ women and adolescents where possible, and enforce other codes of conduct, for example, preventing commercial sexual exploitation of children in construction camps.
- Supporting to social protection programs to improve labor standards, particularly in the informal sectors where many trafficked workers are “hidden.”
- Supporting government efforts to improve migration management but incorporating these issues into macroeconomic assessments and analysis.

Implementation of the National Plan of Action: discussions identified the importance of

- Linking to policies and other government agencies as different NPA components are implemented, e.g., linking to ADB’s secondary education stipend program to achieve progress on NPA components concerning increasing education and life skills of those most vulnerable to trafficking and commercial sexual exploitation;
- Coordination, collaboration, and monitoring of efforts; and
- Seeking ways to incorporate women more effectively into antitrafficking efforts. There were discussions on how the NPA, which focuses only on children, could be used to extend extra resources and efforts to support programs for women as well.

BANGLADESH NATIONAL WORKSHOP PROGRAM

Day 1: 7 April 2002

09:00–09:30 Arrival of guests and participants

Inauguration

09:30 Arrival of Chief Guest, Mr. Mahfuzul Islam, Secretary, Ministry of Women and Children Affairs (MWCA), Government of Bangladesh

09:30–09:35 Recitation from the Holy Quran

09:35–09:40 Introduction of guests by Ms. Sonomi Tanaka, Social Development Specialist, RSDD, Asian Development Bank (ADB), Manila

09:40–09:50 Welcome Speech by Mr. Toru Shibuichi, Country Director, Bangladesh Resident Mission, ADB

09:50–10:00 Speech by Mr. Hasib Aziz, Director General, South Asian Association for Regional Cooperation (SAARC), Ministry of Foreign Affairs, Government of Bangladesh

10:00–10:10 Inaugural Address by Chief Guest, Mr. Mahfuzul Islam, Secretary, MWCA, Government of Bangladesh

10:10–10:20 Vote of Thanks by Mr. Md. Shahidul Haque, Regional Representative, International Organization for Migration (IOM)

10:20–10:40 Tea Break

Working Session I

**Chair: Prof. C.R. Abrar
Dhaka University**

10:40–11:00 Objectives of the National Consultation Workshop
Ms. Sonomi Tanaka, Social Development Specialist
Asian Development Bank, Manila

11:00–12:50 Interactive Presentation of Findings
Ms. Helen Thomas, RETA Team Leader,

12:50–1:00 Wrap-up by Chair

1:00–2:00 Lunch

Working Session II

Chair: Mr. Matthew Friedman
Technical Advisor, USAID, Dhaka

2:00–2:10 Objectives of Group Work
Ms. Helen Thomas, RETA Team Leader

2:10–3:10 Group Discussion

3:10–3:30 Tea Break

3:30–4:30 Plenary presentation of group findings and wrap-up by
Chair

Day 2: 8 April 2002

Working Session III

Chair: Ms. Sonomi Tanaka
Social Development Specialist
Asian Development Bank, Manila

09:30–09:40 Presentation of findings from group work in context of
links to policy environment
Ms. Helen Thomas, RETA Team Leader

09:40–10:30 Plenary discussions of policy environment in
Bangladesh and South Asian region to combat
trafficking of women and children, including next steps
to be taken by stakeholders

10:30–10:45 Tea Break

10:45–12:00 Session continues

12:00–12:30 **Concluding Session**
Chair: Md. Shahidul Haque
Resident Representative, IOM

12:30 Lunch

BANGLADESH NATIONAL WORKSHOP PARTICIPANTS

GOVERNMENT

- | | |
|--|--|
| 1. Mahfuzul Islam
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MWCA | Ministry of Labor and
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| 2. Shamsul Arefin
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MWCA | 9. Begum Zishan Ara Arafunnesa
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Ministry of Home Affairs |
| 3. Md. Mahbubul Alam
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Local Government Division |
| 4. Md. Hasib Aziz
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NGOs and Other Civil
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| 5. Suraiya Begum
Deputy Secretary
Ministry of Expatriates Welfare
and Overseas Employment | NGOs |
| 6. Ruhul Quddus
Labor Director
Ministry of Labor and
Employment | 12. Salima Sarwar
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ACD |
| 7. Julhas Uddin Ahmed
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Deputy Chief (Labor) | 14. M. Shahidul Islam
Program Advisor
Bangladesh Shishu Adhikar
Forum |
| | 15. Selim Reza Ahmed
Dhaka Ahsania Mission
Dhanmondi, Dhaka |

- | | |
|---|--|
| 16. Md. Azad
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| 17. Mamtaj Roomy
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Mukti Nari-o-Shishu Unnayan
Kushtia | 27. John Davies
CPCCT (NORAD-funded
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| 18. Salma Ali
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Gender Fund Consultant
CIDA |
| 19. Tasneem Siddiqui
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| 20. Prof. C.R. Abrar
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| 22. Husayum Kabir
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| 23. Md. Mizanur Rahman
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National University of
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| | 34. Nishat A. Chowdhury
Trafficking and Child Labor
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USAID Dhaka |
- International Organizations**

- | | |
|--|---|
| 24. Md. Shahidul Haque
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| 25. Nadia Shafiullah
IOM | |

- | | |
|---|---|
| 36. Dr. S. Jana
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| 37. Lila Peters
Chief Child Protection
Unicef | 44. Ferdousi Sultana
Gender Advisor - Consultant
ADB |

- 38/9. Fabrizio Senesi and
Barbara Trapani
Country Representatives
APS

RETA Team

45. Helen Thomas
RETA Team Leader
Agriteam Canada

Asian Development Bank

- | | |
|---|---|
| 40. Toru Shibuichi
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| 41. Brahm Prakash
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CWCS |
| 42. Sonomi Tanaka
Social Development
Specialist RSPR, RSDD
ADB, Manila | |

APPENDIX 5

SUMMARY OF INDIA WORKSHOP PROCEEDINGS HABITAT CENTRE, NEW DELHI 11-12 APRIL 2002

1. Inauguration

The **Country Director, India Resident Mission, Asian Development Bank (ADB)**, welcomed and thanked all participants for attending the Workshop. He then outlined ADB's program in India and the importance of mainstreaming trafficking concerns into large-scale poverty reduction programs by targeting those most vulnerable. He also identified the links between regional issues and the recently signed South Asian Association for Regional Cooperation (SAARC) Trafficking Convention.

Ms. Sujatha Manohar, Member of the National Human Rights Commission, stressed the complexities of the causes of trafficking. Addressing poverty may not be enough—women's economic empowerment is also vital—women are forced to migrate for the purpose of earning for their basic needs, and this makes them more vulnerable. Increasing the number of women involved in ADB projects could also contribute to women's empowerment.

The Secretary of Department of Women and Child Development (DCWD) inaugurated the workshop. The Secretary congratulated the regional technical assistance (RETA) Team for preparing the India Country Paper, which he judges to be of high quality, and will be useful to DCWD in preparing future actions. The Secretary also stressed the complexity of trafficking, however, understanding this complexity should not stand in the way of taking action. The government, nongovernment organizations (NGOs), or political structures alone cannot solve these problems, partnerships are required and more action is needed. Data collection and analysis must be transformed into practice. Concrete proposals need to be put into action and consensus developed where possible, leaving aside for now the more contentious areas. The Government of India has projects in the six major metropolitan areas with state actions in several important states.

The Secretary also stated that the Government of India welcomes funding agencies to join as partners, but it is not necessary to develop stand-alone antitrafficking projects. Poverty reduction in source areas is vital—including Nepal and Bangladesh, to alleviate the problems for India. Incorporating social impact assessments into infrastructure projects is also important, in a similar manner to the environmental impact assessments. It is also essential to move forward on implementing the SAARC Convention as it stands.

2. Working Session I

The RETA Team presented the main findings from the crossborder data section of the India Country Paper and invited comments from participants.

The Joint Secretary, DWCD, congratulated the RETA Team for presenting pioneering work that will form a springboard for more studies and efforts to collaborate on collection and analysis of cross-border data. The Joint Secretary went on to provide specific comments on certain sections, and stressed the importance of taking the SAARC Convention as a framework, but also seeing its implementation as an iterative process.

Other comments from participants included:

- While understanding the scope of the RETA was limited to three countries, Pakistan must also be included in further studies as this is a destination and transit point for much trafficking;
- There is a need to develop a common database where all NGOs and other stakeholders can register information—DWCD is taking up such an initiative;
- Some participants stressed the importance of broadening all definitions and analysis of trafficking beyond commercial sexual exploitation as there is high demand for trafficked labor in other sectors—e.g., adolescent girls from Kerala sent to the Gulf as domestic workers;
- Alternative sources of data that still must be explored include trafficked women from migrant communities, community leaders, etc., who are also aware of what is taking place within their communities, but at the same time codes of ethics for the collection and dissemination of such data need to be developed;
- The links between trafficking and demands from the tourism sector must also be recognized;

- There is a need to train and build awareness among grassroots-level police and other enforcement officials to increase reporting of cases—DWCD is already preparing a manual, but it is relatively slow to change attitudes and to break the ties between criminals and some of the police officers benefiting from trafficking; and
- In the impact analyses undertaken in the ADB project design, one must look at the wide range of issues with influence over trafficking dynamics, e.g., environmental degradation, destruction of the natural habitat, closing of factories, mines, etc.

3. Working Session II

During the afternoon session the RETA Team presented the findings from the remaining sections of the India Country Paper, including factors influencing dynamics of trafficking, programming in place, and potential entry points for partnerships between ADB and other stakeholders involved in combating trafficking. The participants also spent some time discussing in smaller groups good practices that could be integrated into ADB projects and policy dialogue.

Comments and examples of good practices from group work and overall discussions included:

- Importance of links between trafficking and migration and understanding vulnerabilities of mobile populations—antitrafficking programming needs to target these populations;
- Telecommunications projects could partner with antitrafficking efforts through facilitating help lines. An example is Mumbai where a help line is now available for women 24 hours per day with strong backward and forward linkages to other programming, e.g., providing information on where shelter homes are available, where to find legal assistance, etc.;
- Roads and highway projects can ensure that prevention messages are disseminated along the highways, state transport depots, etc. Also, information booths should be incorporated into new or improved infrastructures at highway intersections—but again with strong backward and forward linkages. Highway sector is very challenging—those women and girls working along the roads are the most difficult to reintegrate and many poor families living along the highway are tempted to get involved;
- Slum upgrading projects also have great potential for partnership

with anti-trafficking stakeholders—support could be provided through development of shelter homes managed by NGOs, training centers, and to tie sustainable livelihoods to these activities. It is important to create spaces for women to leave commercial sex work and also resist the temptations of traffickers to return;

- Examples were discussed from Sri Lanka on the importance of developing safe migration packages;
- It is important to strengthen capacities and awareness of local government and build linkages between government/PRIs/NGOs/private sector so that holistic antitrafficking efforts can be developed that address the needs and perspectives of all stakeholders—it is important to recognize the strength of social capital that already exists at the community level, and to build on that;
- It is essential to explore coordination of various issues under the SAARC Convention, for example: coordination among government agencies—health, labor; NGO coordination across borders and with governments; information-gathering with collaboration among agencies and NGOs, improved repatriation mechanisms; etc;
- ADB regional policy dialogue can incorporate issues such as improving border facilities, labor conditions, and employment opportunities for those most vulnerable to being trafficked; and
- Regional linkages can be strengthened through support from ADB-financed crossborder projects (road corridors, etc.) such as those between NGOs in India with Maiti Nepal or with Bangladeshi NGOs.

4. Working Session III

On the second day, the focus of discussions was on elements of an enabling policy environment for combating trafficking and the next steps to be taken under the RETA. The following issues were discussed in this context:

Child Protection: A request was made that as several participants were about to leave for the United Nations General Assembly Special Session (UNGASS) on the Convention on the Rights of the Child, child protection issues should be discussed, including:

- Children's rights;
- Feminization of poverty and its impact on children;
- Legal mechanisms not in place to adequately protect children—this is complex as there age limits specified in different parts of the legislative framework vary; there is also a need to review and improve juvenile justice systems and their links to issues such as remand homes, special police for the protection of children etc.; and
- Monitoring of standards of child rescue homes—just building more shelters is not sufficient to ensure that the quality of care improves. DWCD indicated that state-level committees are being established to set standards for care. DWCD has initiated a swadha project that provides funds to state-level governments to increase the number of homes available, but pressure also has to be placed on state governments as the central Government can only make recommendations.

Recommendations were drawn up by participants that will be taken to UNGASS regarding these issues including children's rights, custodial homes, and establishing special police cells.

Microfinance: There are severe constraints for stakeholders to access microfinance services for rescued women and other programs for reintegrating of trafficked persons. A quota is requested by stakeholders working with this target group from the overall poverty reduction programs facilitated by DWCD and other state-level government focal points (e.g., RMK). DWCD agreed to look into this matter.

SAARC Implementation: DWCD confirmed that the process of operationalizing the commitments under the SAARC Trafficking Convention is underway, with blueprints being developed by the Ministry of Foreign Affairs for mechanisms for collaboration; the points raised at the workshop would be incorporated into these discussions.

Advocacy from civil society: DWCD commented that it is important for all stakeholders to advocate for improved programming at the state level. This can be reinforced through pressure from women Panchayati Raj Institution-elected officials, etc. Pressure from the judiciary is also bearing fruit at this level. They also stressed the importance of working together and drawing from each other's experiences, which could be spread through regional linkages and support from organizations such as ADB.

INDIA NATIONAL WORKSHOP PROGRAM

Day 1: 11 April 2002

09:00 – 09:30 Arrival of guests and participants

Inauguration

09:30-10:15 Arrival of Chief Guest, Secretary, Department of Women and Child Development (DWCD); Ministry of Human Resources (MHR), Government of India.

Introduction of the guests Ms. Sonomi Tanaka, Social Development Specialist, Asian Development Bank, Manila

Welcome Speech by Mr. Frank Polman, Country Director, India Resident Mission, Asian Development Bank

Inauguration of Workshop by Chief Guest, Secretary, DWCD, MHR, Government of India.

Vote of thanks by Ms. Shireen Lateef, Principal Social Development Specialist, Asian Development Bank (ADB), Manila

10:15 – 10:30 Tea Break

Working Session I

10:40-11:00 Objectives of the National Consultation Workshop
Ms. Sonomi Tanaka
Social Development Specialist
ADB, Manila

11:00-12:50 Interactive Presentation of Findings
Dr. Nandini Azad, National Consultant and Ms. Helen Thomas, RETA Team Leader

12:50-1:00 Wrap-up

1:00–2:00 Lunch

Working Session II

- | | |
|-----------|--|
| 2:00-2:10 | Objectives of Group Work
Ms. Helen Thomas, RETA Team Leader |
| 2:10-3:10 | Group Discussion |
| 3:10-3:30 | Tea Break |
| 3:30-4:30 | Plenary presentation of group findings and wrap-up |

Day 2: April 12, 2002

Working Session III

- | | |
|-------------|--|
| 09:30-09:40 | Presentation of findings from group work in the context of links to policy environment
Ms. Helen Thomas, RETA Team Leader |
| 09:40-10:30 | Plenary discussions on the policy environment in India and other South Asian countries to combat trafficking of women and children, including next steps to be taken by stakeholders |
| 10:30-10:45 | Tea Break |
| 10:45-12:00 | Session continues |
| 12:00-12:30 | Concluding Session |
| 12:30 | Lunch |

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20. Ms. Meera Mishra
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23. Dr. Shireen Lateef
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24. Ms. Sonomi Tanaka
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RETA Team

25. Ms. Helen T. Thomas
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26. Dr. Nandini Azad
National Consultant, India
27. Dr. Gopal Krishna Siwakoti
National Consultant, Nepal

APPENDIX 6

SUMMARY OF NEPAL WORKSHOP PROCEEDINGS Himalaya Hotel, Lalitpur 20 March 2002

Opening

The Country Director from the ADB Resident Mission welcomed and thanked all participants for their participation. He stated that combating trafficking is a new area for ADB, which is true in that it does not a fund/loan for a stand-alone antitrafficking initiative in South Asia. However, ADB recognizes how the impacts of trafficking are undermining other development efforts in Nepal. He concluded by stressing the potential for ADB's poverty reduction programs in Nepal to link with antitrafficking initiatives and stakeholders, and requested participants to verify the findings of the Nepal Country Paper and assist in sharpening the paper's focus and sharing their good practices and experiences with the regional technical assistance (RETA) Team.

Findings of the RETA Nepal Country Paper

The RETA Team Leader presented an overview of the findings and the following issues were raised during plenary discussions.

1. Definitions and Understanding Overall Characteristics of Trafficking

- Domestic (local) definition is essential to closely look at the problem and formulate an appropriate strategy as the international definition may not cover the specific country issues, e.g., in Nepal there is increasing evidence of trafficking of boys, therefore definitions must not exclude these aspects; similarly, internal trafficking is also of concern in Nepal and must be incorporated;

- Definition established by the Special Rapporteur on Violence against Women covers more “practical” issues or problems and it is good that the RETA adopted this definition; and
- Care must be taken not to conflate women and children in any analysis.

2. SAARC Convention

Concerns were expressed about the lack of comprehensive definitions and confusions stemming from the South Asian Association for Regional Cooperation (SAARC) Convention, e.g., nothing in the text guarantees the right for women to migrate; there are poorly defined distinctions between voluntary and forced migration; and the focus on prostitution makes it a “moralistic” document rather than an objective guide/framework. Other points raised included:

- The recent Yokohama conference addresses sexual exploitation of children with less priority to trafficking—it is important to widen the focus to include the broad range of trafficking concerns;
- SAARC is necessarily more focused on crossborder rather than internal trafficking, which is a rising problem in Nepal because of the increased number of internally displaced persons (IDPs); and
- It is important that support is given to civil society and government as they review the SAARC Convention and to charter more practical agreements and understanding among the signatories, particularly important for prosecution of criminals involved.

3. Available Data and Statistics

Participants pointed out that the mapping exercise undertaken by the Ministry of Women and Children and Social Welfare (MWCSW) presented in the RETA Country Paper only covers crossborder trafficking, and therefore further efforts have to be made to incorporate what information is available on internal trafficking. However, all participants agreed that there is no data available, only small research studies. Participants concluded that:

- There is an urgent need for more accurate and comprehensive data to improve planning and targeting of antitrafficking initiatives;
- These efforts should be undertaken collaboratively among all stakeholders to ensure that scarce resources are used efficiently;
- Current national census has included child labor and migration questions and conclusions and analysis on trafficking should be incorporated in government use of this data;
- A major challenge is the lack of birth registration that makes it difficult to tell who is missing from a community; and
- Some participants did express concern that already scarce resources are not diverted from antitrafficking efforts to continue to study the situation.

4. Factors Influencing the Dynamics of Trafficking

While participants agreed that it is important to understand the underlying causes of trafficking and its association to poverty, most of the discussions focused on the links between migration and trafficking. Participants all felt that these links have been poorly integrated into previous analyses, especially the vulnerabilities of mobile populations, such as those moving from rural to urban areas, and the rapid increase in IDPs and others forced to flee the current civil strife and insecurities in Nepal. It is estimated that 200 IDPs arrive each day in Kathmandu. Participants felt that the following issues should be clearly incorporated into the RETA's analysis:

- The restrictions placed on women's migration and the impact this has on their vulnerability to being trafficked;
- The need for safe migration information packages to be made available to those most likely to migrate—particularly women who currently have no access to such information—but a rights-based approach must be adopted when developing and delivering such packages to ensure that women maintain the right to migrate and take up other options to secure their livelihoods;
- Informed versus uninformed choice of migration needs to be well understood and the links to vulnerability to being trafficked; and

- It is important also to develop initiatives focusing on “exploitative” zones, e.g., factories, domestic work, among street children, etc.; and that prevention initiatives include those forced to migrate (involuntary resettlement, refugees, and IDPs).

5. Links Between Trafficking and ADB-Supported Sectors in Nepal

The RETA Team presented the main findings from the Country Paper regarding potential linkages and requested inputs from participants concerning good practices and other examples of how partnerships with ADB-supported projects could be created to facilitate integration of antitrafficking initiatives where appropriate. As there were representatives from the Melamchi Water Supply Development Board (an ADB-supported project), discussion also focused on the water supply sector to illustrate possible integration entry points. Ideas that were discussed included:

- Capacity-building exercises with the local government officials to ensure local inputs and understanding of surrounding conditions regarding incidence of trafficking, particular vulnerabilities, etc.;
- Savings and credit and other livelihood initiatives build resistance to trafficking, but attention must be paid to ensuring that products produced are marketable (this has proven to be a flaw in many microcredit projects);
- Education (formal and non-formal)/health education/confidence and awareness building should all be carried out with local NGOs and those familiar with local conditions;
- Generally ensuring that those most vulnerable—the extremely poor, marginalized ethnic and caste groups—are included in programming. Girls and women in particular require extensive confidence building, and provision of alternative options to maintain livelihoods and to ensure that if they migrate they have access to employment and can resist the deception and coercion of traffickers (e.g., scholarships for girls can be very effective). Women’s empowerment initiatives that increase women’s access to resources are also vital (e.g., land, credit, education);
- Facilitating safe migration, building improved programs for displaced persons, and providing services to recently arrived

migrants in urban areas are all important. Women's Rehabilitation Centre (WOREC) and United Nations Children's Fund (UNIFEM) are already working on safe migration packages and have experience that can be drawn upon to increase understanding of how to approach these issues;

- It is also important to target demand areas—e.g., construction camps where WOREC had observed increased demand for trafficked girls not from the immediate area but from communities far enough away not to draw attention to their activities. All codes of conduct or covenants incorporated into ADB-financed contractor's agreements should be aware of how trafficked labor and CSWs are recruited for large construction camps; and
- Community participation in all these types of initiatives is essential to ensure that many of the causes for migration, abuse, etc. within communities or homes of trafficked persons are addressed at the source, by the communities themselves.

All participants agreed that mainstreaming trafficking concerns into poverty reduction projects is not only possible, but vital to increase the resources available and to multiply the impacts of their efforts. However, as the Plan International representative pointed out, there are some policy issues that cannot be addressed at the project level, and ADB can play an important role in dialogues with the Government on these issues, e.g., legislative reforms, increasing political will of government ministries to address trafficking.

6. Policy Dialogue and General Recommendations for ADB

Plenary discussions concluded that the following areas have potential for support from ADB:

- Creating space within ADB-supported projects to partner with antitrafficking stakeholders, and encouraging ministries not already involved to link their mandates to combating trafficking e.g., strengthening local government, roads, and other transport systems; building infrastructures such as information booths, shelters, etc. for migrants and others most vulnerable to being trafficked;

- Providing support at the regional level for implementation of the SAARC Trafficking Convention and raising awareness of links at the regional level between addressing poverty and trafficking concerns;
- Providing support to civil society and government in their efforts to increase understanding of migration and links to trafficking;
- Supporting efforts to increase understanding of the macro and regional-level impacts of trafficking, for example on economic development, potential for market integration, diversion of health resources, etc.; and
- Continuing support for women's empowerment in general.

NEPAL NATIONAL WORKSHOP PROGRAM

9:00	Arrival
9:15–9:45	Opening and welcome from Dr. Richard Vokes, Country Director, ADB Nepal Resident Mission
9:45–10:15	Background presentation regarding regional technical assistance (RETA) from Ava Shrestha, Gender Advisor, Consultant, ADB Nepal Resident Mission
10:15–10:30	Tea Break
10:30–11:15	Presentation of findings from Nepal Country Paper, by RETA Team
11:15– 2:30	Plenary discussion of findings and links with existing antitrafficking programming to different sectors of ADB program in Nepal
12:30–1:30	Lunch
1:30–3:00	Plenary discussion of policy environment and potential for ADB's contribution to policy dialogue to combat trafficking
3:15–3:30	Wrap-up of workshop findings

NEPAL NATIONAL WORKSHOP PARTICIPANTS

GOVERNMENT

1. Shanti Basnyat
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3. Govind P. Thapa
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4. Indira Rana
National Human Rights Commission

NGOs

5. Bimala Jnawali, AATWIN
6. Bhagwati Nepal, AATWIN
7. Durga Ghimire, ABC Nepal
8. Madhavi Singh, NNAGT
9. Kishore Silwal, CeLRRD
10. Sabin Gurung, Maiti Nepal
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12. Renuka Bajagain, HimRights
13. Purna Shakya, HimRights
14. Salina Joshi, FWLD

- 15. Gauri Pradhan, CWIN
- 16. Renu Rajbhandari, WOREC
- 17. Padma Mathema, NPCS
- 18. Gyanendra Aryal
INHURED International

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- 21. Pankaja Bhattarai, The Asia Foundation
- 22. Jaya Sharma, Canadian Cooperation Office
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- 24. Sangeeta Thapa, UNIFEM
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- 27. Bimal Rawal, ILO
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- 30. Suman Sharma
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31. Kishore Maskay, Media Reporter
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33. Ava Shestra, Gender Advisor, Consultant

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34. Helen Thomas
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35. Gopal Krishna Siwakoti
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36. Pranita Thapa
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37. Rita Litwiller

APPENDIX 7

TRANSIT POINTS BETWEEN BANGLADESH AND INDIA

A. Land Routes of Trafficking in Women and Children

SL	Bangladesh Districts	Transit Thana	Trafficking Route or Last Transit Point in Bangladesh	First Transit Point in India
1	Brahmanbaria	Akhaura	Gopinathpur	Agartala
2	Chittagonj	Mirersarai Sithakunda	Karerhat Jorwargong Brabkundu	Goes to the western borders of Jessore or Rajshahi to India
3	Chuadanga	Jibannagar	Darshana	Bilonia
4	Comilla	Choddagram	Chouara	Agortola
		Burichong	Rajapur	Agortola
5	Cox's Bazar	Teknaf Ramu	Teknaf	Mongedu (Myanmar)
6	Dinajpur	Hakimpur	Hili (Bangladesh), Zila Sadar, Biral, Birampur, Hakimpur Amtoli (Chirrir Bandari) (Kamolpur, Sadar Thana)	Hilli (India) Balurghat Radhi Kapur Samjayo
7	Gaibandha	Gobindojong Bonarpara Shadullapur	Polashbari, Goraghat, Shagata	
8	Jessore	Sarsa	Shalkuna Shikarpur Benaplole Goga Chanduria Putkhali Bahadurpur	Bongaon Kurulia Kurulia Jointipur, Kalini Horiduspur Jhoudanga Paspota, Gopalpur Angrail Poranobongaon Shutay
		Jhikorgacha	Kashipur	Boyra
		Chougacha	Kabilpur Mashila Ansolia Boyra	Boyra Laxmipur Bagdha Bagdha

Cont'd...

SL	Bangladesh Districts	Transit Thana	Trafficking Route or Last Transit Point in Bangladesh	First Transit Point in India
9	Jhenaidha	Moheshpur	Jadabpur Porapara Talsar Mandartala Samkur Jololi	Krishanagar Shantipur Birnagar Ranaghat Shibnagar
10	Kushtia	Daulatpur	Pragpur Dhotarpara	Baharampur (Murshidabad) Beldanga
11	Kurigram		Burungamari, Fulbari Nageshwari	Burungamari, Fulbari Nageshwari
12	Lalmonirhat	Lalmonirhat Sadar	Mogholhat Burimari, Patgram Hatibandha	South Gitaldaha Shitalkhuchi
		Patgram	Dahogram Angurpota Burimari	Berubari Chengra Bandha
13	Meherpur	Meherpur Sadar	Mujibnagar Shalika Sholmari	Batai
14	Nawabganj	Shibganj	Bishanathpur Chowka Monakosha Kiranganj Radhanagar Zaminpur	New Farakka Station
15	Nilphamari	Dimla Domra	Chatna Chilahati Gomnati Ketkibari Thakurgonj	Jalpaiguri Jalpaiguri Jalpaiguri Shinzarhat
16	Panchagarh	Atwari	Dhamur, Atoary, Tetulia Bothgaon	Raniganj, Islampur
		Tetulia	Banglabandha	Fulbari Shiliguri
		Boda	Baroshashi	Haldibari, Manikganj
		Panchagarh Thana	Vitargarh, Harivanha Amorkhan Prodhan Para Velku Para-Magurmarl Chaukla Shiugroad	Berubari, Daspara, Chawlhati, Haldibari
17	Rangpur	Domar	Chilahati	Haldibari
			Lalmonirhat Gaibandha Patgram, Hili	Jalpaiguri

Cont'd...

SL	Bangladesh Districts	Transit Thana	Trafficking Route or Last Transit Point in Bangladesh	First Transit Point in India
18	Rajshahi	Charghat	Kakramari	Jalangi
19	Satkhira	Kalaroa	Hijaldi Damdam Bhadli Chanduria	Hakimpur Gunnaspur Panchpota
		Kaliganj	Bhomra	Ghozadanga Itendia
		Shymnagar	Bhomra	Ghozadanga Itendia
20	Thakurgaon	Horipur Rani Saukaul	Horipur, Ranishangkayel Bhaturia Minapur Dharmogarh, Nonduar	Hemtabad Chopra Thana
		Baliadangl	Lohagora, Horiamari Bongovita Vandar Daha	Islampur
		Pirgay	Kalmega Boirchuna Fokirgay	Hemtabad Kushmundi

B. Land Routes of Trafficking from Jessore and Satkhira

SL	Bangladesh Districts	Transit Thana	Trafficking Route or Last Transit Point in Bangladesh	First Transit Point in India
1.	Jessore	Sharsa	Chanduria	Gopalpur
		Sharsa	Bhulat	Jaw Dhanga
		Sharsa	Putkhali	Bannabaria, Angrail
		Sharsa	Doulatpur	Kaliani
		Sharsa Sharsa	ICP Benapole Sadipur	Petrapole ICP Jaintapur
		Sharsa	Rogunathpur	Haridaspur Ramchandapur
		Sharsa	Bhadurpur	Sutia
		Sharsa	Salkuna	Bazidpur
		Jhikargacha	Shikarpur	Bassgata
				Mustaqpur
		Jhikargacha	Kashipur	Meherani Boyra
		Chowgacha	Shazadpur	North Boyra
		Chowgacha	Mashilia	Boyra
		Chowgacha	Hizli	Pasbaria
		Chowgacha	Andulia	Mama Vagne
		Chowgacha	Borni	Musaumpur
		Chowgacha	Zadabpur	Kulia Madhupur
		Chowgacha	Zaluli	Zitpur
		Chowgacha	Samanta	Pasti Gata Chawhali Singamari
2.	Satkhira	Debhata	Vomra	Boshirhat
		Kolaroa	Madra, Vadli	Hakimpur
		Kolaroa	Hizaldi, Sultanpur	Gunnaspur Bhitnari

Source: Shamim, I. & Kabir, F., 1997.

APPENDIX 8

INTERNATIONAL COMMITMENTS OF BANGLADESH, INDIA, AND NEPAL RELEVANT TO TRAFFICKING

Treaty	Bangladesh	India	Nepal
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of	A	R	—
Others (1949 Convention) UN Convention Against Transnational Organized Crime	—	—	—
• Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	—	—	—
• Protocol Against the Smuggling of Migrants by Land, Sea and Air	—	—	—
Slavery Convention	S (1985)	S (1954)	A
Supplementary Convention on the Abolition of Slavery	A	R	A
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	A	S (1997)	A
International Covenant on Civil and Political Rights	A	A	A
International Covenant on Economic, Social and Cultural Rights	A	A	A
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	A	R	R
• Optional Protocol to CEDAW	R	—	S (2001)
Convention on the Rights of the Child (CRC)	R	A	R
• Optional Protocol to CRC on the Sale of Children, Child Prostitution and Child Pornography	R	—	S (2000)
International Convention on the Elimination of All Forms of Racial Discrimination	A	R	A

Cont'd...

Treaty	Bangladesh	India	Nepal
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	S (1998)	—	—
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	A	—	—
Forced Labour Convention, 1930 (No. 29)	R	R	R
Abolition of Forced Labour Convention, 1957 (No. 105)	R	R	—
Minimum Age Convention, 1973 (No. 138)	—	—	R
Worst Forms of Child Labour Convention, 1999 (No. 182)	R	—	R
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	R	R	R
Equal Remuneration Convention, 1951 (No. 100)	R	R	R
Migration for Employment Convention (Revised), 1949 (No. 97)	—	—	—
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	—	—	—
Part-Time Work Convention, 1994 (No. 175)	—	—	—
Home Work Convention, 1996 (No. 177)	—	—	—

Key: R = ratified
A = acceded to
S = signed

Note: By ratifying or acceding to an international treaty, a country becomes obligated to comply with the terms of that treaty under international law. By signing an international treaty document, a country indicates its intention to take the necessary steps to ratify or accede to the treaty, and becomes obligated to refrain from acts that would defeat the object and purpose of the treaty.

Sources: United Nations [<http://www.un.org>]; Office of UN High Commissioner for Human Rights [<http://www.unhchr.ch>]; International Labour Organisation [<http://www.ilo.org>].

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