



**CARITAS INDIA**

**A CLOSE LOOK AT  
INDO-NEPAL CROSS-BORDER  
CHILD TRAFFICKING**

**PRAVIN PATKAR & PRITI PATKAR**







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2017

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# CONTENTS

Preface	vii
Abbreviations	ix
Introduction	1
1. Research Design	8
2. Desk Review	19
3. Data Analyses	60
4. Recommendations	142
Conclusion & Way Forward	161
References	165



# PREFACE

Globally, human trafficking which is termed as the modern day 'slavery' is a million dollar lucrative criminal business. Human trafficking takes on different forms and proportions with certain countries and regions as the source areas while the others act as transit and destination hotspots. In the field of anti-human trafficking interventions, several Civil Society Organizations have played a big role to prevent trafficking and protect the victims of this heinous crime. The Indian Government has taken the lead in combating human trafficking and has brought out different schemes, programs and legislations to prevent the crime of trafficking and to achieve social reintegration of the victims.

Since the last three decades, Caritas India has been engaged with different multi-layer and multi-stakeholder programs aimed at the prevention of human trafficking, protection and promotion of the rights of victims of trafficking and their social reintegration. Caritas India takes forward community-managed mechanisms to prevent human trafficking by creating awareness at community level, making the community resilient by promoting legal literacy, empowering the local communities through community- based livelihood and skill development

initiatives, etc. In these endeavors, Caritas India works in close collaboration with other like-minded Organizations to build stronger networks, since we believe that human trafficking can effectively be prevented through creation of robust networks and linkages. Keeping this in mind, Caritas had initiated a network of Organizations working in the field of anti- human trafficking called All India Network to End Human Trafficking (AINEHT).

I am pleased to know that Caritas India is bringing out the book 'A Close Look at Indo-Nepal *Cross-Border* Child Trafficking'. I strongly feel that this Report will benefit the Government, Civil Society Organizations and Academicians to come up with relevant strategies in combating human trafficking in all its forms.

Together, we are confident that this growing network of Government, Civil Society Organizations and passionate individuals will help in the rescue, reintegration and repatriation of victims of human trafficking as well as the prevention of cross-border human trafficking in the years ahead.



**Most Rev. Lumen Monteiro, CSC**  
Chairman  
Caritas India

## ABBREVIATIONS

AATWIN	Alliance Against Trafficking in Women and Children in Nepal
ADB	Asian Development Bank
AHT	Anti Human Trafficking
AHTU	Anti Human Trafficking Unit
AIR	All India Reporter of Judgements of Supreme Court and High Courts
CBATN	Cross-Border Anti Trafficking Networks
CBI	Central Bureau of Investigation, Government of India
CBO	Community Based Organization
CBS	Central Bureau of Statistics
CBT	Cross-Border Trafficking
CCWB	Central Child Welfare Board
CDO	Chief District Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CID	Criminal Investigation Department

CIF	Child India Foundation
CPCS	Child Protection Centre Services
CRC	Child Rights Convention
CrPC	Code of Criminal Procedure
CSE	Commercial Sexual Exploitation
CSE&T	Commercial Sexual Exploitation & Trafficking
CSO	Civil Society Organization
CWIN	Child Workers Concerned Center in Nepal
DCCHT	District Committee on Controlling Human Trafficking
DCWB	District Child Welfare Board
DEHAT	Developmental Association for Human Advancement
DIG	Deputy Inspector General of Police
DoFE	Department of Foreign Employment
DWCD	Department of Women and Child Development, Government of India
ESP	Education Support Program
FEA	Foreign Employment Act, 2007 of Nepal
FEPB	Foreign Employment Promotion Board
FGD	Focus Group Discussion
FIR	First Information Report
FWLD	Forum for Women, Law and Development
FWPR	Female Work Participation Rate
FY	Fiscal Year
GB	Road Garstin Bastion Road

GBV	Gender Based Violence
GDP	Gross Domestic Product
GMC	Guidance & Monitoring Committee
GO	Governmental Organization
GoN	Government of Nepal
HIV/AIDS	Human Immuno-deficiency Virus/Acquired Immune Deficiency Syndrome)
HRW	Human Rights Watch
HTCA	Human Trafficking (Control) Act, 1986 of Nepal
HTTCA	Human Trafficking and Transportation (Control) Act, 2007
I/NGO	International/Non-Governmental Organization
ICCW	Indian Council for Child Welfare
ICDS	Integrated Child Development Scheme
IEC	Information, Education and Communication
IJM	International Justice Mission
ILO	International Labor Organization
IN-CBT	Indo Nepal Cross-Border Trafficking
INGO	International Non-Governmental Organization
INGON	Impulse NGO Network
INSEC	Informal Sector Service Center
INTERPOL	International Police Organization
IOM	International Organization for Migration
IPC	Indian Penal Code, 1860

IPEC	International Programme for the Elimination of Child Labour ILO
IPP	Institutional Placement Programme
IRDP	Integrated Rural Development Scheme
ITPA	Immoral Traffic (Prevention) Act, 1956
JJAct	Juvenile Justice Act, 2000
MHA	Ministry of Home Affairs
MHRD	Ministry of Human Resource Development, Government of India
MoFA	Ministry of Foreign Affairs
MoU	Memorandum of Understanding
MoWCSW	Ministry of Women, Children and Social Welfare
MSS	Manav Seva Sansthan
NCC	Night Care Centre
NCCHT	National Committee on Controlling Human Trafficking
NCCR	National Center for Children at Risk
NCRB	National Crime Records Bureau
NCW	National Commission for Women
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NHRC	National Human Rights Commission of Nepal
NHRC-OSRT	National Human Right Commission-Office of the Special Rapporteur on Trafficking in Persons

NJA	National Judicial Academy
NPA	National Plan of Action
PIL	Public Interest Litigation
PGSS	Purvanchal Gramin Seva Samiti
PNCC	Prawasi Nepali Coordination Committee
RLA	Red Light Area
SAARC	South Asia Association of Regional Countries
SAFAHT	South Asia Forum Against Human Trafficking
SARI/Q	South Asia Regional Initiative/Equity Programme
SEDA	Social Environment Development Association
SHO	Station House Officer of a police station
SI	Sub Inspector of Police
SITA	Suppression of Immoral Traffic Act, 1956
SP	Superintendent of Police
SPO	Special Police Officer
SSB	Sashastra Seema Bal
STD	Sexually Transmitted Disease
STI	Sexually Transmitted Infections
STOP	Stop Trafficking and Oppression of Persons
TIA	Tribhuvan International Airport, Kathmandu
TIP	Trafficking in Persons
U/S	Under Section
UAE	United Arab Emirates
UDCR	Universal Declaration of Child Rights, 1989

UN	United Nations
UNCRC	United Nations Convention for the Rights of the Child
UNDCP	United Nations International Drug Control Programme
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund United States of America
UNODC	United Nations Office on Drugs and Crime USA
USAID	United States Agency for International Development
UT	Union Territory
VAW	Violence Against Women
VDC	Village Development Committee
WHO	World Health Organization
WOREC	Women's Rehabilitation Center

# INTRODUCTION

Trafficking in person is a compound crime that violates basic human rights and has become a high-profit and relatively low-risk business with ample supply and growing demand. Every year, thousands of women and children are abducted, deceived, seduced, bought or sold and forced to cross international borders. The economic crisis clubbed with frequent natural disasters has made Nepali children and women vulnerable to traffickers as more and more women and children have to look for work to support themselves or their families.

Nepal is a small nation state with an area of 1,47,181 sq.km. It is sandwiched between two large nation states namely India to the south and China to the north. Out of its border of 2926 km, it shares 1236 km with China on the north and 1690 km with India on the remaining three sides. It has a population of 2,81,21,000 of which 1,15,26,000 i.e. 40.9% are under 18 years. Of these children, 29,11,000 are under 5 years.<sup>1</sup> Thus, like India, Nepal claims to be a nation of young people.

Historically, through the time of the British Raj in India, and until very recently, Nepal has been a monarchic political regime.

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1 See: <http://data.unicef.org/countries/NPL.html#sthash.X358sJLk.dpuf>

After a two-decade long, intense and violent political agitation, led by the Maoist groups, a Bill was passed on 28th December, 2007 which abolished monarchy. It declared Nepal democratic republic with effect from 28th May, 2008. It adopted a new constitution on 20th September, 2015.

Over 25% of the population of Nepal lives below the poverty line. Its population comprises of many numerically small and remotely placed ethnic groups. Its physical communication infrastructure in terms of roads, rail lines and water ways is extremely poor. Nepal has only two short rail lines - one for passengers and the other for cargo. The line from Raxaul in India to Sirsiya in Nepal is only 6 km. in length, while the second narrow gauge line from Jayanagar in India to Bijalpura in Nepal is 53 km.

Although historically Nepal had a backward economy, in the last few years it has started showing impressive growth.

<b>Gross Domestic Product (GDP)</b>	
	2011 – 3.8
	2012 – 4.6
	2013 – 3.8
	2014 – 5.1
	2015 – 3.0

*Source: NHRC Nepal 2013-15*

Nepal, until recently a Hindu nation (the end of monarchy in 2008 saw the nation move completely from Hinduism to secularism) is a long established ally of India. The two countries have historical and cultural affinity. Five states of India namely Uttarakhand, Bihar, Uttar Pradesh, West Bengal and Sikkim share approximately 1690 km. border with Nepal. The country

also shares an equally long border with China. Apart from the religion – Hinduism, it shares other socio-cultural factors with India. Unlike with its other South Asian neighbours like Sri Lanka, Pakistan and Bangladesh, India and Nepal have no immigration laws to regulate the movement of each other's population across their borders. Under the Citizenship Act, 1952, Indians could easily get into Nepal and get the citizenship of Nepal. Similarly, Nepalese citizens could easily enter India and work there as long as they desired.

Although the borders between India and Nepal have entry posts, the Indian and Nepalese citizens are allowed to cross the border without passports or visas or any other formalities. The Indo-Nepal Treaty of Peace and Friendship, 1950 was the official beginning of the peaceful relationship between the two countries. Nonetheless, the Indo-Nepal relationship has been passing through several ups and downs.

As there are no immigration laws between Nepal and India and as the borders are open and porous, illegal migration, smuggling and human trafficking are very rampant. Migration of its workforce is very common due to its stagnant economy and shortage of local wage opportunities. Since 2000, several cases of Cross-Border trafficking of children have been reported by the Anti-Human Trafficking (AHT) organizations of both the countries. In the recent years the AHT-Civil Society Organizations (CSOs) have expressed grave concern over the alarming rise in the trafficking of boys for labour.

Both Nepal and India have well articulated laws to address human trafficking. In 2002, both the countries, as members of the regional inter-governmental body – SAARC, passed a Convention against trafficking which is limited to sex

trafficking. India has special laws to address different types of trafficking such as sex trafficking, trafficking for bonded labour, organ trade, begging, child labour etc. The Indian Penal Code – 1860 also addresses some of the offences related with trafficking. Nepal passed the Human Trafficking and Transportation (Control) Act (HTTCA) in 2007. However, there is dissatisfaction in both the countries over the implementation of the anti trafficking laws.

While both the countries have a progressive juvenile justice system, it is alleged that most of the incumbents of these systems are not properly selected, lack adequate training and are low on commitment, sensitivity and accountability. Both the countries have a vibrant civil society sector which has been working against human trafficking for over three decades.

The State and the Civil Society Organizations (CSO) of both the countries have been active on this front since 1996. The CSO sectors of both the countries have high level of collaboration with the state. Several anti-human trafficking CSOs claim to have conducted large scale anti-trafficking awareness programs for the stakeholders, including the potential victims.

Investigation is the monopoly of the police and CSOs have very little role in it. The police at different levels have been trained through a variety of programs in both the countries. UN agencies, INGOs and international funding organizations have sponsored such training programs by involving the field practitioners and the AHT – CSOs as resource persons. The prosecution of those involved in sex trafficking and sexual assaults in both the countries has often been extremely slow and traumatizing resulting in the re-victimization of the victims. Delayed prosecution affects the rehabilitation of

the trafficked person. Prosecution also suffers because of a lack of political will on the part of the states. In the absence of adequate victim assistance measures, witness protection programs and time-frame, significant number of cases results in acquittal and dismissal. However, the Special Court set up in Mumbai, which gets cases of Nepalese victims, has shown impressive performance and higher conviction rate.

The repatriation of a foreign victim results in the culmination and end of the civil society intervention. In the case of India and Nepal it mostly takes place in one direction i.e. from India to Nepal. The CSO sector has shown great initiative and seriousness in facilitating repatriation.

The line between unsafe migration resulting in trafficking and safe migration is extremely thin and hazy. Between India and Nepal, very little work has been done on this dimension of AHT intervention. A multi-disciplinary forum, The Regional Action Forum of South Asia, constituted in 2005-06, developed three South Asian Protocols, one of which is on safe migration. However, these Protocols have been largely ignored and not implemented by the AHT Interventionists.

Most AHT-CSOs working in South Asia have devoted substantial part of their resources, energy and time on creating awareness among the specialized duty bearers, particularly the vulnerable communities of high supply zones, as well as the lay people.

This report is intended to be useful for government, CSOs, academicians and individuals working against human trafficking. The main purpose of this research was to undertake a study on the human trafficking phenomenon and

the interventions across Indo-Nepal to counter it, with an aim to evolve a way forward.

The research provides information regarding Indo-Nepal Cross-Border trafficking, laws and legislations existing in both the countries, push and pull factors, case studies collected from different stakeholders, observations and recommendations.

With the entry in to force of the United Nations Convention against Transnational Organized Crime (UNTOC) and its protocols, the international community has taken a major step in the fight against organized crime. Nepal and India are both signatories to international conventions and bound by domestic law to combat trafficking, and yet, this scourge continues.

The whole research study has been done by Ms. Priti Patkar & Dr. Pravin Patkar who are known social activists and academician. This book is an outcome of six-month extensive work on data collection and compilation of the study. We thank them for not only writing this study but also for their openness to feedback and suggestions made by Caritas India and other reviewers. We express our gratitude to Ms. Meenal Tula who gave her valuable suggestions on literature review.

Many Civil Society organizations from India and Nepal, government officials, police officers, border security forces, shelter homes and other stakeholders have contributed significantly for providing the information and sharing the data and case studies. We are grateful to all of them. Special thanks to Purvanchal Gramin Seva Samiti (PGSS) for all the support provided during the data collection.

A work of this magnitude could not have been completed without the active support of the staff of Caritas India. I thank Bishop Lumen, the Chairman, Fr. Paul and Fr. Jolly for providing valuable suggestions and administrative support. Thanks to Ms. Leeza, Thematic Officer who assisted in data collection and coordinated with whole process to bring out the research document in the form of a book.

**Fr. Frederick D'Souza**

Executive Director

Caritas India

# 1

## RESEARCH DESIGN

### **Objective of the Study**

To undertake a study on child trafficking and anti-trafficking interventions across the Indo-Nepal border with a view to evolve directions for future interventions.

This research is expected to cover the following:

- ❖ Mention the salient observations from the existing research and country assessments including the statistics on IN-CBT, especially of children
- ❖ Mention the legal-policy frameworks pertaining to IN-CBT
- ❖ Identify the target groups (male, female, children) as seen through the desk review and primary data collection
- ❖ Identify the current and changing trends in IN-CBT
- ❖ Discuss the logic of mapping the dynamic trafficking routes
- ❖ Identify the modus operandi of IN-CBT and changes therein
- ❖ Mention the scope and kind of existing AHT interventions in the targeted region

- ❖ Mention the counter trafficking strategies of the State and the CSOs
- ❖ Present the views and observations of the key AHT stakeholders and networks engaged in work against the IN-CBT
- ❖ Based on the desk review and the primary data, make recommendations for the critically important interventions required against IN-CBT.

The study was undertaken at the behest of the Caritas India which has been engaged in anti-trafficking work for the past few decades and hence familiar with the Indian situation.

The study was prompted by the concern and conviction of CARITAS India that there is a growing problem of trafficking of children across the Indo-Nepal (I-N) land border. This concern was based on its own work with the civil society organizations of both the countries that were engaged in anti-trafficking work along the I-N land border for some time. There was a presumption that trafficking is heavily unidirectional in nature i.e. it is taking place from Nepal to India and certain interventions along the I-N border could help ameliorate the situation. The programmatic concern of CARITAS required that the study focused on the Gorakhpur part of the I-N border. It is for this reason (besides the other dictated by the limitations of time and resources) that the study has not covered the phenomenon of CBT across the entire I-N border.

## **Definition of Research Design**

A research design is an overall practical and strategic plan of action that comprises of the research related technical matters

which can most efficiently and cost effectively help a researcher arrive at a better answer to the research questions set before him/her. An organization that wishes to accomplish certain objectives at the ground level should rightly be interested in understanding the situation and arriving at the most cost effective plan. In this sense, this exercise is far more than an academic or classical research project.

### **Purpose of the Research Design**

Why should one study the Indo-Nepal Cross-Border situation, including the situation of the anti-human trafficking intervention? At the outset, it is important to answer this question especially when so much has already been documented, if not in the domain of classical publication but certainly in the arena of gray literature. The South Asian region represents social change to the maximum. The social, economic, political as well as environmental situation of this area is fast changing. It has been witnessing major upheavals in terms of demographic changes. It is emerging as a large supplier of semi-skilled and skilled labour as well as highly qualified human resource. It has also been one of the regions where the status of women exhibits two extremes - on the one hand there is extreme suppression, privatization and exclusion of women with large scale abandonment and exploitation of children and on the other hand there is an upward mobility of women and child-friendly and inclusive public policies. The South Asian region is also called the Indian sub-continent because of the Indian centrality. However, the situation of human trafficking is no exception to this centrality.

The rise of considerable gray literature in this domain served a very important function in the past. It provided the required

insight for positive intervention at little cost and avoided the delay in the arrival of classical knowledge through the essentially profit-oriented world of conventional publication. It might not be possible to equate the gray literature with scientific literature but it was authentic and useful.

The phenomenon of human trafficking has a long history in South Asia. Some of the malpractices are cracking down under the impact of modernization; some are persistent; while some are undergoing mutations. Some of the situations are expected to be changing merely out of strategic reasons (e.g. the techniques used by the traffickers due to increased police crackdown), while some other situations are changing under the influence of the market (such as, increased demand from certain countries resulting in increased supply to those countries). No anti-human trafficking interventions can hope for any significant accomplishment by staying unaware of or indifferent to such dynamics.

In spite of the multi-dimensional changes on the Human Trafficking (HT) front, one thing that has persisted and increased is the disguised nature of the HT crime itself. This is particularly so in the non-institutionalized and non-customary practices such as, non-Devadasi and non-Deuki customs of prostitution.

Human life puts severe limitations on some of the accurate methods of inquiry such as the experimental method. The latter are common in physics, chemistry and such other sciences. The classical survey method tries to go closer to the experimental method in a *post facto* manner. In order to understand how an earthquake has impacted human life, it is not appropriate and permitted to subject human beings to an earthquake. It is quite

common to study human life before and after an earthquake (*post facto*) or compare that with the otherwise similar human life where there was no earthquake. In terms of collecting data as well, it may not be advisable to do it immediately after an earthquake.

It is advisable to first deliver the disaster relief measures. The propriety and efficiency of the data collection are also determined by its timing. In a conventional red light area, a sensitive, effective and competent researcher can undertake a random sample-based survey through an interview for data collection, instead of prematurely skipping the requirements of the scientific method under the excuse of the phenomenon being highly disguised. The latter has been the most common escape route in social research on prostitution or sex trafficking in South Asia.

## **Disguised Phenomenon**

A Cross-Border human trafficking continues to remain highly disguised. This disguised nature dictates the choice of the research design. The Cross-Border trafficking lies on the border of criminality. The crime is such that it exhibits several characters of an otherwise legal, innocent or even altruist activity till it is fully completed and the victim is actually exploited. For instance, taking a young person across a country to get him/her a job is a legal and altruist activity. An intervention in such situation could be considered as harassment of innocent citizens.

Very little knowledge is available in the public domain with regard to the process of Cross-Border child trafficking, especially for the sex trade. To know the outcome of previous

interventions, one needs to study the earlier efforts. One should have discussions with the actors involved to identify the successes and failures associated with each of them.

There was little knowledge in the public domain about the universe. There was little theorization about the phenomenon. In the absence of any prior knowledge or theorization, sample surveys were considered as unsuited.

Hence a survey – neither random sample survey nor purposive/ quota sample survey seemed appropriate.

## **Exploratory Case Study**

A survey presumes substantial prior knowledge about a phenomenon to be studied. Hence, surveys are better suited for explanatory studies and are next to experimental methods. An explanatory study needs to have hypothesis. As exploratory study does not and cannot have hypothesis, although one does often come across studies based on gross ignorance about this scientific requirement.

As the existing knowledge was not enough to construct any hypothesis, the case study had to be exploratory in nature. It tried to answer the question ‘What’, such as, what happens in the I-N CBT phenomenon.

A configuratory-descriptive study, like exploratory study, does not have a hypothesis. Thus an exploratory study can elevate itself to the status of a configuratory-descriptive study without having a hypothesis. A configuratory-descriptive study tries to answer the question ‘How’, such as, how all the various

phenomena, observed during the study, are inter-related in the broader phenomenon of IN- CBT.

### **Absence of a Hypothesis**

A hypothesis is a testable statement that looks for relationship between two variables. It is tested with a scientific method. In South Asia, one comes across hypothesis which has just one variable and a question mark in the end. (For instance, who are the victims? What are the routes? Who are the traffickers? How many people have been trafficked? What is the profile of the offenders? Which district the victims come from?) A statement with one variable and a question mark in the end represents a research question and exploratory studies are limited to seeking answers to such research questions.

Setting a hypothesis in advance is not compulsory. A hypothesis can emerge during or after the data collection or during the data analysis. As no credible research studies on Cross-Border trafficking in South Asia exist, exploratory approach was taken into consideration.

### **Tools for Data Collection and Analysis**

Where there are too many processes occurring simultaneously (almost like the performers working on the trapeze in a circus), the classical approaches of data collection by interviewing each individual as per a structure cannot give the correct picture of the whole phenomenon. A game of trapeze can best be understood by a viewer observing it from the viewers' gallery. The choice of field observation is an important though not exclusive tool for data collection.

## **Combining Bird's Eye View with Worm's Eye View**

A village could be seen by climbing a nearby hill or a water tank (an outsider's view). A village could also be explored by walking through its lanes and by-lanes (an insider's view). In this study the 'bird's eye view' is thus combined with the 'worm's eye view'. The data collection was not limited to the field observations alone. Several actors in the phenomenon were interviewed in an unstructured manner with the help of an interview guideline. Emphasis was laid on focused group discussions and non-participant field observations.

This study caters to a dynamic and flexible approach as it learns from the experiences of various actors and stakeholders. In this study, simultaneously, observations are gathered, facts are confirmed, the credibility of the gathered information is cross checked, corroboration is sought, inferences are drawn, key factors are culled out, factors associated with success and failure are listed and the 'lessons learnt' are identified.

The impressions, explanations and conclusions shared by one actor/source were cross checked for authentication, rejection or corroboration against those given by the others. Their internal consistencies and contradictions were also examined logically.

While most of the information was gathered directly from the relevant respondents, secondary data was also used from various sources such as reports of the government departments, crime records, NGO reports, newspapers etc.

## **Data Collection**

Field observations were made in the following places along the I-N border in Gorakhpur district in February 2016:

- ❖ Border gates, formal and informal
- ❖ The actual border
- ❖ Gorakhpur Railway junction
- ❖ Gorakhpur city
- ❖ Bus depots and transportation hubs

Following offices, organizations, officers and representatives were interviewed:

- ❖ Manav Seva Santhan (MSS), Gorakhpur
- ❖ Purvanchal Gramin Seva Samiti (PGSS), Gorakhpur
- ❖ CHILDLINE - PGSS
- ❖ CHILDLINE - Vikalp
- ❖ Navjeevan Protective Home Mumbai
- ❖ CWC Office
- ❖ Shelter Home of PGSS
- ❖ Girls' Shelter Home in Gorakhpur
- ❖ Gram Niyojan Kendra, Gaziabad
- ❖ Short Stay Home of Maiti Nepal and its Office - Rupandehi

Reports from the following sources were gathered:

- ❖ PGSS
- ❖ MSS
- ❖ CHILDLINE
- ❖ National Human Rights Commission - Nepal
- ❖ Human Rights Watch
- ❖ Prerana
- ❖ CHILDLINE - PGSS

Focus Group Discussions were carried out with the following:

- ❖ CWC Gorakhpur
- ❖ PGSS CHLDLINE
- ❖ Vikalp CHLDLINE
- ❖ Coolies - Gorakhpur Railway Station
- ❖ Street Youth - Gorakhpur Railway Station

Data collected from various sources in Mumbai in March and April 2016:

- ❖ Rescue Foundation Mumbai
- ❖ Pratham, Mumbai
- ❖ Children's Home, Dongri Mumbai
- ❖ CWC Members, Mumbai
- ❖ Navjeevan Protective Home, Mumbai
- ❖ Prerana, Mumbai
- ❖ International Justice Mission, Mumbai

In July 2016 the researchers also visited the following organizations in Nepal:

- ❖ Caritas, Nepal
- ❖ Alliance Against Trafficking in Women and Children in Nepal (AATWIN)
- ❖ Shakti Samuha
- ❖ Biswas Nepal
- ❖ Child Protection Centers and Services (CPCS)
- ❖ Social Environment Development Association (SEDA)

## Limitations

The above research design is finalized by taking into consideration the limitation of time and resources. The availability of and access to existing research findings, data banks and secondary data were the other limitations of this exercise. A lot of information, especially about the activities and accomplishments of the various AHT stakeholders, was furnished by them. It was also collected from their reports. None of these could be further verified given the resource and time limitations. Thus, the research design was implemented within these serious constraints.

## 2

# DESK REVIEW

The civil society organizations in South Asia, engaged in countering human trafficking, have attempted to contribute to the knowledge base on human trafficking. Most of their literature is in the form of gray literature. It is largely driven by the need to seek funds and visibility to the organization. Most of this literature is in the form of anecdotes, stories and narrations as interpreted by a third party, like a social worker or a news reporter. However, such literature is not enough to draw scientific inferences. As the AHT–CSOs are not professional researchers, one cannot expect a detailed study from them.

The story, however, is dismal on the front of comprehensive and expensive professional research that is mostly sponsored by the state agencies and INGOs, including many funding agencies. The 2004 report by National Human Rights Commission of India on human trafficking is one such study that represents extreme lack of understanding of social research. Such lack of understanding results in minimum acceptable quality from the research vendors. In the last few years in South Asia, a few organizations have come up who claim to be specialized in documentation. It is an important service. They have come out with a series of reports, which they claim to be reports of scientific research. Interestingly,

some of them are on Cross-Border trafficking itself. Their reports too show a lack of understanding of scientific research. If their claim of being a scientific research is kept aside, then they can be considered as good attempts at documenting ground-level realities as observed by an external reporter.

Given the limitations of the current inquiry, in terms of time and resources, it was not possible to collect a large scale and comprehensive primary data. The data were collected by experienced researchers from various stakeholders through individual unstructured interviews, field level observations and focused group discussions.

The National Human Rights Commission of Nepal has been releasing some valuable reports intermittently, which scan the existing research products and put together a range of official statistics. In its desk review, the current inquiry has drawn substantially from the latest reports of NHRC Nepal, such as ‘Trafficking in Persons, National Report 2013-15’, with due acknowledgement.

### **The Political-Historical Factor**

As mentioned earlier, Nepal, like Bhutan, was never a colony of any European power. British colonialism had a mixed impact on its colonies - positive as well as negative. Contrary to India, Nepal remained deprived of many critical infrastructural (roads, railways and water ports) and social-institutional (constitution, rule of law, Public Service System like ICS/IAS, education, spread of liberal democratic ideas, etc) reforms. Being under the monarchical power, Nepal also lacked the qualities of a welfare state. Between 1990 and 2008, Nepal had a constitutional monarchy. Subsequently, in 2008, it became a constitutional democratic federal secular republic.

## The Hilly Terrain

The northern part of Nepal is a landlocked hilly terrain. However, that in itself is not a sufficient explanation for its backwardness, as is established by the experiences of the Western European countries located in the alpine region. The tourism sector in Nepal is an adequate evidence of how the tourism related technology can be imported and put to use even in the remotest backward areas. The remote parts of Nepal have some of the best entertainment and sports- related technologies in use. Agriculture and food-fruit processing also contribute to its economy but the sector is traditional and not modernized.

The tourism and hospitality industry suffered heavily due to long stretched political unrest, which ended the Royal rule and introduced a republic with Maoist dominance. While the country was to adopt its first Constitution, it was hit by a devastating earthquake in 2015. It is feared that the Gurkha Earthquake will have far reaching negative impact on the Nepalese society and economy. Several children died, many became orphans and a large number was trafficked.

*“The powerful earthquakes of 25 April and 12 May and its 380 aftershocks have left devastating results in Nepal. Nearly four months after the 25 April’s Gurkha earthquake, Nepal has been affected with 8,959 people dead, of which 28 per cent were children, and left 22,322 injured. Further, 1.4 million people are in continued need of food assistance, 1 million people in need of support to restore livelihoods and 2 million people are in need of sustained sanitation and water supply.”<sup>1</sup>*

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1 See: [http://www.unicef.org/appeals/files/UNICEF\\_Nepal\\_Humanitarian\\_SitRep\\_20Aug2015.pdf](http://www.unicef.org/appeals/files/UNICEF_Nepal_Humanitarian_SitRep_20Aug2015.pdf)

It is estimated that additional 3% of the population has been pushed below the poverty line as a result of the earthquake.

### **Children and Violence**

Nearly 40% of the child population is engaged in labour, 8% of which is in the worst form of labour (NHRC Nepal P. x). “According to the Informal Sector Service Center (INSEC) report in 2013, a total of 715 children are reported to have (become) victims of different crimes: rape (57%), sexual abuse (25.5%) and child trafficking (9%). This pattern also holds for the year of 2014” (NHRC Nepal P. x).

### **Trafficking and Inter-country Adoption**

The NHRC Report states, “Studies indicated that there is linkage between trafficking and inter-country adoption” (NHRC Nepal P. x and xi). It indicates a drastic decline in the inter-country adoptions in 2013-14 and 2014-15. It attributes the decline to the rise in surrogacy, besides governmental control on adoption.

### **Dependence on Tourism**

The monarchic politico-economic past of the country has given special encouragement to the international tourism as against the rational, balanced, equitable and sustainable development of the overall economy which is expected of a welfare state. The concept of welfare state was missing during the Royal period and as a result large parts of the country remained neglected. While the scope to climbing the Himalayan peaks gave boost to adventure sports-based tourism, the overall beauty of the country gave a fillip to entertainment tourism in Nepal.

It is now admitted widely that tourism brings the baggage of sex tourism. There is little mention of sex tourism in the Nepalese context. This is particularly in stark contrast with Goa, a tiny Indian state, which is famous all over the world for international tourism and notorious for rampant sex tourism that victimizes children. Both the countries have a history and tradition of commercial sexual exploitation. However, there is a wealth of knowledge and advocacy in the case of Goa, while the same is grossly missing in the case of Nepal.

While tourists from all over the world flock to Nepal for entertainment and adventure tourism, there is a reverse movement of population as well. A large number of Nepalese travel abroad.

In this regard, it is only apt to seek answers to a few pertinent questions - What kind of Nepalese go to the foreign countries? What is the purpose and period of their travel? Is it entertainment tourism, business tourism or labour-class migration for survival? Do they go as workers in search of wages? What is the situation of these workers in those foreign destinations? Is it trafficking '*ab initio*' or migration turned sour?

### **Tourism and Migration**

Tourists voluntarily go to tourist destinations for a short period, spend their money and return to their homeland. Migrants, especially the labour-class migrants, go to the destinations mostly due to domestic push factor and in search of subsistence, if not prosperity. They work in foreign countries; adjust to the local, harsh and unfriendly conditions; earn wages; spend a little amount on themselves; and save more to send it home. The remittances by the labour-class migrants account for 29% of the GDP.

## Labour-class Migration

The Nepal NHRC Report states, “According to the Population Census 2011, the absentee population consisted of 1.9 million but it is age and sex selective: of the total absentee population, 88 percent are males while rest 12 percent are females and 77 percent are in the age range of 15 - 35 years”. (NHRC Nepal P. xii) The Report admits that labour migration from Nepal is closely linked with exploitation and trafficking. It states, “Evidences reveal that a large number of Nepali labour migrants end in forced labour situation or they are trafficked for labour exploitation”. (NHRC Nepal P. xiii)

Among the caste/ethnic groups, the highest proportion of absentee population is recorded among hill Dalit (10%), followed by hill Janajati (8%), hill caste group (7.6%), Muslims (5%), Madeshi Janajati (3.9%), caste group (3.7%) and Madeshi Dalit (3.5%)... Almost 75 % of the Nepali labour migrants are unskilled persons. (NHRC Nepal P. xiii)

The data maintained by the Department of Foreign Employment (DoFE) for the eight-years of (FY 2006/07-FY 2013/14) shows that “it is mostly the eastern, central and western Terai districts that have supplied the largest number of foreign labour migrants”. (NHRC P. xiii) Interestingly, “for female foreign labour migration, it is mostly the hill/mountain districts such as Sindhupalchok, Makwanpur, Kathmandu, Kavre, Nuwakot and Illam (DoFE, 2014a)”. (NHRC Nepal P. xiii) “The flow of foreign labour migrants was more than five hundred thousand in FY 2014/15 and the stock of migrants in between 2006/07 and 2014/15 reached to 3 million with 2.95 million males and 75,000 females. In terms of flow or

stock of migrants, Malaysia (39%), Qatar (23.5%), Saudi Arabia (20%) and UAE (11%) are the major labor destination countries of Nepal”. (NHRC Nepal P. xiii):

- ❖ Most of the labour migrants are male, young and unskilled
- ❖ Most of them belong to backward and ethnic groups, tribes and communities
- ❖ The number of labour migrants has increased phenomenally in the last decade
- ❖ The eastern, central and western Terai districts have supplied the largest number of labour migrants
- ❖ The hill/mountain districts such as Sindhupalchok, Makwanpur, Kathmandu, Kavre, Nuwakot and Illam are the largest suppliers of female labour migrants.

“Peoples Forum (2015) study provides some indications of the key demographic and social characteristics of the victims of fraud, deception in the process of foreign employment. More than 90 percent of the victims were males, 37 percent comprised of below 25 year of age and 55 percent in between 26-40 years of age. It was found that 71 percent of the victims were cheated by recruiting agencies while the rest by the agents. A range of complaints was reported: from not sending on time (40%) to the extreme cases of physical attack (17%), put into custody in destination countries, compelling to work in forced labour situation and the death of the workers. It is found that victims get extremely low compensation amount against their claim amount. The ratios of compensation were less than 20 percent. ....Evidences reveal that a large number of Nepali labour migrants end in forced labour situation or they are trafficked for labour exploitation”. (NHRC Nepal P. xiii)

The amount of remittances from India to Nepal has also declined. Twenty nine percent (29%) of the GDP of Nepal comes from the remittances from the migrated labour. Tourism contributes 2.3% of GDP. The remittances from India have declined substantially from 90% in early 80s to 40% in 2011. (NHRC Nepal P. xiii)

Between 1980 and 2011, the proportion of Nepalese migrants to India has declined from 90% to 40%.

The remittance has reduced in the same proportion in the same period.

The proportion of migrants to India has substantially declined over the years. In the early 1980s, almost 90 percent of migrants were destined to India, while it was 40 percent in 2011. (NHRC Nepal P. xii, xiii)

Thus, the Nepalese migration cannot be categorized as tourism. It is a labour migration, in search of subsistence. This brings us to a very important trend in the Nepalese economy i.e. the export of human resources.

Unfortunately, the exported human resources do not comprise of educated or skilled manpower. As a result, the wage earnings continue to be very poor. Unlike the export of skilled human resources from the state of Kerala in India to the Gulf countries, in Nepal export of unskilled resources has not resulted in an improved quality of life.

Earlier, as the migration of Nepalese to India for work was allowed without passport or visa, they migrated to Mumbai in large numbers. Initially, majority of them worked as security personnel for private properties and cooperative housing

societies. The association had become so common that in cities like Mumbai and Delhi the term *Gurkha*, which is a name of one of the Nepalese ethnic groups that migrated to Mumbai, became synonymous with security guards.

However, the situation of the uneducated Nepalese women migrating to India, especially to Mumbai, was different. These women did not ‘migrate’ but were trafficked, mostly for the organized sex trade and for domestic servitude.

### Trafficking of Children for Circus Establishments

Nepalese children as performing artists in Indian and other circuses has been a common sight. Persistent action by child rights activists from the metropolises of India on circuses has, in the last decade, brought this incidence considerably down. This observation was corroborated by most of the AHT CSOs of Nepal. No group mention circus as a destination for the trafficking of Nepalese children any more. The report of a 2004 case of rescue is given below:

#### 29 Nepali Children Rescued from Indian Circus

A ban on the display of wild animals in Indian circuses has led to increased demand for ‘performing’ children, most of them from Nepal. A group of 29 Nepali children have been rescued from the Great Indian Circus in Palakkad in Kerala, thanks to the persistent efforts of activists from the Nepal Child Welfare Foundation (NCWF) and the South Asian Coalition on Child Servitude.

The children were reunited with their parents following a raid and talks with the owners of the circus, earlier this month. Since then, 17 more Nepali children have been rescued from an Indian circus performing in Nepal.

Circus-owners admit that there are currently up to 500 Nepali children employed in the circus industry, most of them in the age-group 5-14 years. “Nepali children are targeted because of their fair complexion and because their parents are far away and unlikely to interfere,” says Khem Thapa, head of the NCWF.

Children in circuses often endure regular beatings and sexual abuse. There are inherent dangers in their circus act also.

Padmini, a minor, was forced to balance a vertical sword in her mouth, the sharp end between her teeth and a flowerpot at the other end. With this she had to climb a stepladder. “I had to perform wearing very short revealing clothes and I hated that. We weren’t allowed to wear long dresses,” says Uma, one of the rescued children.

The NCWF and its UK-registered partner, the Esther Benjamins Trust and the South Asian Coalition, last year, brought out a detailed report on children working in circuses in India. Researchers interviewed 230 children aged between 5 and 14, belonging to 29 circuses. The report highlights the dismal plight of the children. Campaigners are now working towards encouraging circus-owners to hand over children working in their circuses, within a reasonable time frame.

(Source:<http://infochangeindia.org/children/news-scan/29-nepali-children-rescued-from-indian-circus.html>)

## Trafficking for Marriage

“Trafficking of girls to Korea and China for the purpose of marriage is a growing phenomenon in Nepal. This happens because South Korea and China have been experiencing low fertility and high male child preference. The NHRC- OSRT National Report 2009-10 of TIP estimated that there are

at least 1,000 female migrants who went to South Korea through marriage between 2005 and 2013. About 300 are happily married while others are in slavery condition. On March 7, 2015, the Central Investigation Bureau (CIB), Nepal Police, raided the Chheru International Pvt. Ltd. and arrested the rackets involved in trafficking of young girls to Korea and China for marriage. Initial investigations show that there are at least 83 such bureaus operating in Nepal.” (NHRC Nepal P. x)

### **Missing Persons/Children**

“In Nepal, the reported number of missing children has considerably declined in the FYs of 2013/14 and 2014/15, compared to the previous years. However, the untraced rate has been more than 40 percent over the years – majority being girls (56%) against boys (31%). According to the record of the Women and Children Service Directorate (WCSD), Nepal Police, the five-year (2009/10 – 2013/14) average number of missing persons recorded exceeds 5,000. Of them, almost 74 percent were females and rest 26 percent are males. 39 percent were children and rest 61 percent were adults.” (NHRC Nepal P. xi)

### **Trafficking for Organ Trade**

In many cases, the labour sector is trafficked for organ trade. “PPR Nepal carried out a study among 36 kidney donors in Kavre district in 2014. The study reported that 16 out of 36 kidney donors interviewed were Dalit. Out of them, 27 reported that they granted consent for the extraction of their kidneys. This is a very unusual finding as nobody would be happy to

sell his/her organ willingly. Economic compulsion may be the prime factor for internalization of such wrongdoings. Most of the kidney donors were contacted via middle person.” (NHRC Nepal P. x)

### **Internal Trafficking**

The boys and girls from the remote parts of Nepal get trafficked to some of the tourist destinations in Nepal, India, the Gulf countries or other countries. Most of them are from backward hilly areas or socio-economically backward communities. Nepal has a traditional system of prostitution called Deuki, on the lines of the Devadasi (a religious temple-based evil social custom in India). However, the crime syndicates of sex trafficking do not depend on such evil customs for the supply of victims.

## **Cross-Border Child Trafficking**

### **The Mumbai Connection**

In the red light areas of Mumbai, like Kamathipura, there were many special brothels owned and run by Nepalese brothel-keepers which kept only Nepali girls and women as prostitutes. Commenting on the historical connections between some ethnic groups from Nepal and the sex trade of Mumbai, Chiai Uruguchi writes, “Girls from the surrounding hills of the Kathmandu Valley, Sindhupalchowk and Nuwakot were recruited as professional dancers, singers, and housemaids. These girls mainly migrated internally from rural areas to Kathmandu. During the Rana regime, Tamang females were categorized as professional sex workers. (NHRC, 2005) Despite the first written law called ‘Muluki

Ain', promulgating the abolition of the slavery system, girls and women continued being sent to the palace from mountain districts. (Shakya, 1999) After the collapse of Rana Regime in 1951, some Rana families exiled to India, particularly to Kolkata, Delhi, Mumbai, Bengaluru and Simla, with their servants and entertainers for luxury and sexual pleasure.” (Chiai U 2010 P. X)

In terms of infrastructure, these brothels were of relatively higher standards than the other brothels in Kamathipura. The charges of these brothels were also higher than the rest of the non-Nepalese brothels. However, these were not always the most expensive brothels in Kamathipura. One lane in Kamathipura known unofficially as 'Safed Galli' (White lane), during the British rule and in the first few years of independence, housed only the European prostitutes. They were the most expensive brothels of Kamathipura. At the end of the British rule, most of the European prostitutes were sent back to Europe. That made the Nepalese brothels the highest charging brothels in Kamathipura. Nepalese girls were popular and in demand for their fair skin and docile personality.

### **Changing Modus Operandi**

A number of sex trade traffickers were middle-aged Nepali women who had spent a decade in prostitution in the Indian red light areas. They used to visit the villages of Nepal as employment agents who could get jobs in Kathmandu or even in Mumbai and Delhi for the girls. Due to the distance and poor communication facilities, most of the villagers would have only heard about the glamour and glory of Kathmandu.

These visiting women flaunted their fancy possessions and showered the local villagers with attractive gifts like cosmetics, purses, chocolates and clothes. Thus, impressed by these women, the local villagers would easily walk into their traps and give away their daughters with the hope that they would get a good job in Kathmandu or Mumbai and would bring impressive remittances back home.

Over the years, the modus operandi of the traffickers in Nepal changed. A common story that is quoted by most of the victims, rescued from Indian brothels, start with having extreme poverty back home, someone approaching with an offer of a dream job in India, going along with that person with or without the knowledge of one's parents, becoming unconscious on the way due to a laced drink, waking up after an undetermined time lapse to discover that one is in a brothel and the escort has disappeared for ever. Unfailingly, the story would have a blackout phase about which the victim never gave any details. Most of the stories narrated by the victims remained blank on the journey from Nepal to the red light districts of Mumbai, including the crossing of the border. Thus, the story raised more questions than answers.

### **Changing Composition**

HRW 1995 report states, "This report focuses on the trafficking of girls and women from Nepal to brothels in Bombay, where non-governmental organizations say they comprise upto half of the city's estimated 1,00,000 brothel workers. Twenty percent of Bombay's brothel population is thought to be girls under the age of eighteen and half of that population may be infected with the Human Immuno- deficiency Virus (HIV)". (HRW 1995)

The brothels that kept Nepali women and girls were notorious for high level of secrecy and restricted access to outsiders. Very rarely one could see a very old Nepali woman moving around briskly to buy something from a nearby shop. Others were kept behind an iron curtain. The 1960 study of Bombay prostitutes, focusing on Kamathipura and Falkland Road red light areas, was based on a random sample of 350 women in which they could find only 1 Nepali woman indicating the lack of access to outsiders to these brothels.

Over the last two decades, i.e. since 1990, the number of Nepali women and girls prostituted in the red-light areas of Mumbai has declined drastically. The 1996 mass raid in Mumbai rescued 456 women and girls out of which 218 were Nepalese. Our own study of 2012 (Patkar, 2012) shows it to be 5% only. Most of the Indian studies on sex trafficking and prostitution have used quota samples by stating that ‘the phenomenon is disguised’. On the contrary, the above research studied the universe and then selected a random sample. Hence the claims are far more reliable.

The statistics of the Night Care Centre of Prerana, which provided safe shelter for the children of these prostituted women during the night, also showed a decline of Nepali women. The number of children newly admitted in the Night Care Centres of Prerana is one of the indicators to the arrival of Nepali women in the two major RLAs of Mumbai.

The decline of Nepalese in the conventional red light areas of Mumbai like Kamathipura and Falkland Road could be a cumulative effect of various factors, such as the large scale awareness created within Nepal about the trafficking of girls for the sex trade in India, strong action by Mumbai police against

child sex trafficking, the escalation of cross-border vigilance by various anti trafficking civil society groups and the temporary intensification on the free entry of workers into India, as a result of the tensions in the diplomatic relations between the two countries. Since 1995, the trafficking of Bangladeshi women for the sex trade in India had visibly shot up. The Bangladeshi women were available at much lower rate than Nepalese. As sex trafficking within India became widespread, the demand and presence of Nepalese got adversely affected. Now, the demand for Nepalese come from various destinations like Pakistan, Saudi Arabia, the United Arab Emirates and other Gulf States, Malaysia, Hong Kong, and Russia. Such rise in demand from other countries has also diverted the supply to Mumbai.

## **Child Trafficking for Sex Trade & Labour**

### **The Supply**

Nepal is a multi-ethnic nation. Except tourist attractions like Kathmandu and Pokhara, the rest of the country remains under-developed. The employment opportunities are limited. The spread of education is only recent. The rise of a democratic welfare state is also a recent phenomenon. Its economy is not much diversified. Its human resource is poorly developed. All these factors together make Nepal a high potency supply country. Migration for survival goes hand in hand with sex and labour trafficking. People of all age, sex and ethnicity, searching for wage opportunities, comprise the supply side of trafficking.

Office of the Special Rapporteur on Trafficking, Nepal, under the NHRC Nepal, has released 6 national reports since 2005.

The 2013-15 Report admits, “Assessing the situation of TIP is a difficult task as there is no systematic and centralized counter trafficking database system in Nepal”. (NHRC Nepal 2013-15 P.7) It goes on to state the estimates based on NGOs and police records, “A total of 9,000 to 9,500 persons were attempted to traffic and 8,000 to 8,500 persons were trafficked in each of the FYs 2013/14 and 2014/15”. (NHRC Nepal 2013-15 P. 9) The report points out under-registering of trafficking cases in 2014 and 2015 (185 and 181 respectively). The reason given is overlapping between the trafficking law (HTTCA 2007) and Foreign Employment Act (FEA).

District-wise cases were as follows:

Jhapa (18), followed by Morang (16), Kaski (15), Banke (15) and Sindhupalchok (7) in FY 2013/14. Rupandehi (16), Morang (15), Jhapa (14), Kaski (11), Kailali (10) and Banke (10) districts topped the list in 2014-15. (NHRC Nepal 2013-15 P. 10) The Report also mentions that the victims come from all parts of the country.

### **The Demand**

Large scale involuntary migration (not eviction or expulsion) requires a destination which has opportunities or a demand for unorganized labour. India fulfilled this demand for Nepal. It boosted migration as well as trafficking for the sex and labour sectors. However, in the past few decades, the demand for Nepali girls and women has increased from all over the world, including Europe and USA. The demand comes from the sex trade, labour trade and entertainment trade like circus. The latter prefers children who live a life of captive slaves. The rise in the nuclear families, where both partners are employed,

increased the demand for residential domestic help. In India such demands are largely met by the states of Jharkhand, Chhattisgarh and Orissa and partly by Nepal.

### **The Transit**

Nepal is not known to be a transit country for the passage of trafficked victims of any other country to another. Nepal is located between two giant nations, India and China, having high incidence of human trafficking. However, no respondent mentioned the transit of non- Nepalese victims through Nepal to any of the two neighbours – both by road and air.

### **Nepal as a Destination**

Nepal is reported to be a destination for trafficked Indian boys for brick-making factories. These boys largely belong to Uttar Pradesh and Bihar, the states on the Indo-Nepal border. Most of the destination places were the entertainment outlets, such as cabin and dance restaurants in Kathmandu and other tourist places, where the girls are sexually exploited, economically cheated and trafficked to the Gulf countries. (IDH, 2010; Saathi/Planete Enfant, 2014; Chhori, 2015 and WOFOWON, 2015) However, there is dearth of data on the entertainment industry. (NHRC Nepal P. x)

### **The Victims**

Mostly Nepali girls between 14 and 15 years of age were trafficked for the sex trade in the Indian metropolises. The Nepali men were substantial in number for sex trafficking. The backward Nepalese communities have a high proportion among the victims. “Of the total 191 trafficked survivors,

who participated in the Third National Conference of Shakti Samuha in 2014, the highest proportion were of Janajati (56%), followed by Dalit (21%) and other caste groups (20%). Data from the Supreme Court Judgments also confirmed that majority of trafficked survivors comprised of Janajati (37%), followed by Brahman/Chhetri/Dasanami (32%) and Dalit (16%)”. (NHRC Nepal P. ix).

According to the data available on the rescued persons, it is seen that “overwhelmingly majority of the trafficked survivors<sup>2</sup> are either no schooling or they are just literates (85% in the FY 2013/14 and 68% in FY 2014/15)”. (NHRC Nepal P. ix) Majority of them are unmarried. Eighty five percent of the trafficked survivors are Hindus while 11% and 2.5% are Buddhist and Muslims respectively.

### The Traffickers

In the case of Nepal, for a very long time, the local people were indicated as the traffickers. The sex traffickers are both men and women. The data on persons accused as traffickers shows that they are largely low income illiterate male (70%) and youth (64% to 69%). (NHRC Nepal P. ix) They were found engaged in all sorts of economic activities such as agriculture, non agriculture, service sector, wage labourers, etc. (NHRC Nepal P. ix)

*“A study of 160 imprisoned traffickers in Kathmandu showed that, 71% of them had been busy in traffickers prior to reaching 30 years of their age, their median age was 25 years and were from poor economic background. They were primarily recruiters and transporters but did*

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2 ‘Survivor’ is an undefined and hence, very loosely used term. We presume that here it is used to refer to the ex-victims.

*not do the actual selling of the victims. They crossed the borders through the official gates during the daytime and more than half were never intercepted or questioned while doing so.” (NHRC Nepal P. x)*

### **Involvement of Locals in Child Trafficking**

Literature on sex trafficking indicated the presence and activities of local Nepali women who had spent some years as prostitutes in the Indian brothels and were working as brothel managers. They also played the role of traffickers occasionally by visiting the Nepalese villages to lure girls. In other cases, local men were usually quoted as traffickers.

### **The Trafficking Routes**

Most of the Cross-Border trafficking took place across the border of two states of India - UP and Bihar. The victims are then transported to the metropolises like Delhi, Mumbai and Kolkata by bus or train.

Historical antecedents play a crucial role in stabilizing migration patterns, including the migration routes. These routes remain static, unless any alternate routes that are more efficient in terms of time and costs evolve. Illegal migration may also stick to the same routes, however it may not be correct to presume that human trafficking will follow the same or any other fixed routes. Trafficking being a criminal activity, the traffickers promptly change their routes as and when anti-trafficking vigilance and interception increases.

In the case of Indo-Nepal trafficking, there are few more factors that need to be understood. First, the people of Nepalese origin can easily and legally cross the border without any hassle due to absence of immigration laws. Thus, in this context, there is

no illegal immigration. So, traffickers take the same route in broad daylight as the suspicion could be higher if they attempt to cross the border at night. The opposite happens on other fenced borders where migration laws operate, such as US - Mexico, India – Bangladesh etc.

Second, mostly the victim is under the impression that the trafficker, often a known face or referred person, is doing a favour in taking her to a land of opportunities and dreams and in doing so has to break the law. In such cases, the victim is more likely to stick to a certain version or script tutored by the traffickers, if intercepted by the anti-trafficking agencies. The trafficking doesn't end at the border and hence it is difficult to establish if the victims do not cooperate with the enforcement agencies. Merely accompanying someone on a journey is not a crime. Hence, this possibility offers considerable defense to the traffickers. The idea of drawing trafficking routes, thus, has limited utility and validity.

### **The Routes**

The trafficking industry in Nepal is remarkable not only because it represents the work of large and well-organized criminal gangs and preys on very young victims, but also because the villages from which girls and women are trafficked are so remote. Most are far from the nearest road. Much of the journey from the hill villages to Kathmandu, which can take more than two days, must be covered on foot over rugged mountain paths. Villagers say that despite this, it is not uncommon for traffickers to travel these paths on nights with a full moon with several girls in tow. Police intervention is extremely rare. From the villages, girls are first taken to Kathmandu, either to guest houses or carpet factories. From there to border towns like Birganj, Kakarbhitta, Bhairawaha

or Biratnagar where they are sold to brokers. The going rate is said to be about one thousand Nepali rupees [\$20].

Girls abducted from the Terai and eastern regions are usually taken directly to the border. The brokers then travel by bus or by train to India - to Bombay, Calcutta, Delhi or to smaller cities - and sell these girls to a brothel owner or madam for up to Rs. 50,000 [\$1,666]. According to researchers in Kathmandu, most brokers travel by local bus to Delhi, and then by bus or train to Bombay. Buses are preferred because they are less obvious than trains.

Local police in Birganj told Human Rights Watch/Asia that although their town was a well-known border crossing for traffickers, the routes change frequently. Lately, the girls have changed their route. Now they go through Gaur and Thori (to the east and west of Birganj respectively), two places with minimal Nepali customs and some Indian customs police who are not very vigilant. Activists note that trafficking routes also appear to be changing with migration to the Terai. While there is still much trafficking from the hills of the Bagmati zone, as families migrate in search of work, more girls are being sold from urban areas and villages along the highways.

(Source: Human Rights Watch)

“Several studies reveal that open border is the barrier to control the trafficking of girls and women to India (Pradhan, 1996; KC et al., 2001; IIDS and UNIFEM, 2004). There are only 26 official check points along the entire stretch of 1850 kilometers between Nepal and India border but there are hundreds of exit points where interception either through the security forces or the NGOs is virtually impossible. In Nawalparasi district, for example, there is only one official exit-point between Nepal and India but there are as much as 16 unofficial exit- points (IIDS and UNIFEM, 2004). Similar

situation exists in other border districts of Nepal. This leads to extensive illegal cross-border movements. In addition, there is no immigration control for Nepalese travelling/migrating to India and vice versa, under the 1950 Treaty between India and Nepal. According to the treaty, citizens of each country are guaranteed equal treatment and same privileges in the matter of residence, participation in trade and commerce.” (NHRC Nepal 2006-7 P. 20)

## Rescue

While some AHT organizations have a wide spectrum of activities, there are few which focus on rescue and prosecution alone. For instance, in the field of sex trafficking, Mumbai’s Rescue Foundation, International Justice Mission and Justice and Care have done substantial work of facilitating rescue and prosecution. In the anti-labour trafficking domain, Pratham has done substantial work in a continuous and sustained manner. Nepal’s Shakti Samuha, Maiti Nepal and CWIN have provided immediate and long term victim assistance in the post-rescue phases.

The Indian law demands that only the specially designated police officers (Special Police Officer) can handle the cases of sex trafficking and carry out raids, rescue, and investigation. Nonetheless, there have been few examples of successful collaboration between the anti-trafficking NGOs and the police. The enforcement personnel also get linked with the service provider NGOs and use their services for the rescued victims. The provision of these services like shelter, food, clothing, counseling – psychological and legal, rehabilitation, legal help etc. go a long way in making the processes of rescue,

investigation and prosecution successful. These services also help in curbing re-victimization and re-trafficking in the sex trade.

### Investigation

Investigation of trafficking is the monopoly of the police. CSOs have a little role to play in it. The police at different levels have gone through a series of training in both the countries. These trainings actively engage CSOs as resource persons.

### Prosecution

The prosecution in both the countries has often been accused of being slow and traumatizing causing re-victimization of the victims, both in the cases of sexual assaults and sex trafficking. Prosecution also suffered because of lack of political will of the state. In the absence of adequate victim assistance and time frame for disposal of the case, most of them result in acquittal and dismissals.

*“The conviction rates of TIP in the courts declines as one move from the district courts to appellate courts to the Supreme Court. The five-year (2008/09- 2013/14) average conviction rate in the Supreme Court is 33 while it (is) 44 percent in appellate courts and 58 percent in districts courts of Nepal.” (NHRC Nepal P. xvi)*

### Witness Protection

Victim and witness protection is an area of intervention that, in both the countries, has not been addressed sufficiently. It is a prominent observation that many organizations, engaged in rescue and post-rescue assistance, openly display the victims,

exposing their facial identity. Often these gross violations are prompted by the desire for publicity and funds.

### **Collectives & Peer Groups**

The role of victims and their peers is important. In the Indo-Nepal human trafficking scene, one does find an increasing use of helping professionals like legal experts, clinical psychologists, counselors etc. However, victims' collectives have been facilitated only as exception (For instance, NISHANT, EKTA, DISHA - Mumbai, VIMUKHI- Andhra Pradesh, and Shakti Samuha-Nepal). The AHT scene continues to be characterized by an imposing presence of State agencies and the CSOs.

### **Socializing the Intervention**

Socializing an intervention is better understood when juxtaposed with the concept of monopolizing. In socializing an intervention, especially to combat or address a social problem which is criminal, it is expected that a variety of social structures, social forces and professionals will get involved. It shall not be kept limited to a few structures and professionals that/who are the direct stakeholders. In the case of trafficking, the enforcement agencies should have been the prime movers and hence, also the prime monopolies. However, for a long time, the enforcement agencies like the police, prosecutors and judiciary remained apathetic about the issue and indifferent or mostly hostile to the victims. Till the first decade of this century, in South Asia, the sex trafficking problem was largely perceived as a social problem and not as a serious crime. This might be one of the factors behind the indifference and apathy of the police.

The CSOs, instead, took the lead to address the problem and mobilize the positive stakeholders. However, their mobilization remained limited to the enforcement agencies and direct service providers. The civil society organizations were successful in making the enforcement agencies accept their anti-trafficking mandate. Significant resources and energy were spent on accomplishing this. However, the current picture infers that the problem is once again being perceived and analyzed in a lopsided manner. It is increasingly being seen as an issue to be dealt with by the enforcement agencies with a ‘crime and punishment’ framework, where the police play a prime role. This seems to have dumped the process of socialization in cold storage. Socialization of intervention has happened only as exception. There has been an overall lack of enthusiasm and political will to involve other social platforms in the broad fight against human trafficking.

## **Legal Provisions Against Trafficking**

The Government of Nepal (GoN) adopted a National Plan of Action against Trafficking of Persons (2011- 2021). It took into account the new trafficking patterns, such as those associated with foreign labour migration. The NPA identifies five broad areas for interventions: prevention, protection, prosecution, capacity building and collaboration and networking. For reinforcing the prevention and control of trafficking in women and children, a separate NPA has been implemented since 2011.

*“Nepal is a state party of major human rights instruments. However, it has yet to be the state party of UN Protocol on Trafficking 2000; UN Convention on Right of the Migrant Workers and*

*Their Families, 1990 and ILO Convention 189 on Domestic Workers 2011. Nepal has adopted Human Trafficking and Transportation (Control) Act, 2007 and Regulation 2008. Nepal Police is the law enforcement agency. It has created Women and Children Service Directorate (WCSD) and Central Investigation Bureau (CIB) to effectively deal with the trafficking crime. The CIB during the FYs 2013/14 and 2014/15 carried out different raids and arrests through its special programs to combat TIP. Despite these efforts, there is relatively large number of trafficking accused persons absconded vis-à-vis the arrested persons. The implementation status of the HTTCA 2007 and Regulations 2008 is basically assessed by drawing upon the findings of the recent studies (FWLD, 2014; NJA, 2013 and Kunwar, 2014) and regional and national level workshops, organized by NHRC in the year of 2014 and 2015 among the key stakeholders. It is difficult to assess the implementation status objectively due to the lack of consolidated data and the assessment is more subjective. The level of compliance is assigned as low, low-to-moderate and moderate. Low compliance refers to the conditions in which provisions embodied in the Act/ Regulation have not been implemented at all or implementation is highly unsatisfactory. Low-to-moderate level of compliance is defined as the movement towards satisfactory conditions. Moderate compliance refers to the conditions in which provisions have not been fully realized but they are at the state of satisfactory level.” (NHRC Nepal P. xvi)*

“The analysis reveal that: i) the level of compliance in relation to definition of offences and investigation is low-to-moderate; ii) provisions relating to rescue, rehabilitation and reintegration is low; iii) provisions relating to punishment and compensation is low-to-moderate and iv) provisions relating to others (award, confidentiality, formation of committee and security and in-camera hearing) is low-to-moderate.” (NHRC Nepal 2013-15 P. xvi)

## Constitution of India - Article 23 and 24

Article 23 prohibits traffic in human beings and forced labour and Article 24 prohibits employment of children in factories etc.

## UN Protocol, 2000

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational organized Crime, 2000 (popularly called the Palermo Protocol) define trafficking as:

- (a) *“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- (b) *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- (c) *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;*
- (d) *“Child” shall mean any person under eighteen years of age.*

The Part II of the Protocol deals with assistance to victims of trafficking. Article 6 mentions about the assistance to and protection of victims of trafficking:

1. Protect the privacy and identity of victims and make legal proceedings confidential.
2. Provide for physical, psychological and social recovery, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society; and in particular, (a) Appropriate housing; (b) Counseling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand; (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities.
3. Provide for special needs of children, appropriate housing, education and care.
4. Provide for the physical safety of victims while they are within its territory.
5. Offer victims of trafficking compensation for damage suffered.

### **SAARC Anti-Trafficking Protocol, 2002**

The member countries of SAARC in 2002 passed a convention against trafficking. However, it remained limited to sex trafficking. It was not very impressive, especially as compared to the Palermo Protocol, but it made an option available to the SAARC countries which had not signed the Palermo protocol. Through Article X of the SAARC Convention 2002, the member countries committed to provide a variety of services to the victims of trafficking belonging to another SAARC nation.

### The Indian Penal Code, 1860

The Indian Penal Code, 1860 had a provision against Slavery in Sec. 370. As India had signed the Palermo Protocol 2000 and ratified it in 2011, and since it did not have a legal definition of human trafficking in any of its laws, it had to incorporate the definition of trafficking, as given in the Palermo Protocol. But the definition was introduced with a minor change:

1. Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by :
  - i. using threats, or
  - ii. using force, or any other form of coercion, or
  - iii. by abduction, or
  - iv. by practicing fraud, or deception, or
  - v. by abuse of power, or
  - vi. by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Following is the explanation to the above definition:

- ❖ The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude or the forced removal of organs.
- ❖ The consent of the victim is immaterial in determination of the offence of trafficking.

Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years and shall also be liable to fine. Section 370-A was added to the IPC, providing for punishment for engaging a victim of trafficking (usually the sex buyer).

The provisions of IPC against trafficking are not limited to Sec. 370 and 370-A. There are many other provisions which are useful in tackling the offence of trafficking, mostly sex trafficking:

- ❖ **Section 365: Kidnapping or abducting with intent to secretly and wrongfully confine person** - whoever kidnaps or abducts any person with intent to secretly and wrongfully confine that person shall be punished.
- ❖ **Section 366: Kidnapping, abducting or inducing woman to compel her for marriage etc.** - whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing that she will be forced or seduced to illicit intercourse, shall be punished. [...and whoever, by means of criminal intimidation, as defined in this Code, or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable.]

This Section has a limitation as it is applicable only to women.

- ❖ **Section 366 A: Procurement of a minor girl** - whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable.

This Section has a limitation as it is applicable only to girls less than 18 years.

- ❖ **Section 366B: Importing a girl from a foreign country** - whoever imports into India from any country outside India or from the State of Jammu and Kashmir, any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable.

This Section has a limitation as it is applicable only to girls under 21 years of age.

- ❖ **Section 367: Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.** - whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subject to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished.
- ❖ **Section 372: Selling minor for purposes of prostitution, etc.** - whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse

with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with ... **[Explanation I.-**When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution. **Explanation II.-**For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognized by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.]

This Section has a limitation as it is applicable only to persons under 18 years of age.

- ❖ **Section 373: Buying minor for purposes of prostitution, etc.** - whoever buys, hires or otherwise obtains possession of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing it to be likely that such person will at any age be employed or used for any purpose, shall be punished ... **[Explanation I.-**Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession

of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.  
**Explanation II.** - “Illicit intercourse” has the same meaning as in section 372.]

This Section has a limitation as it is applicable only to persons under 18 years of age.

- ❖ **Section 374: Unlawful compulsory labour** - whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

### **The Immoral Traffic (Prevention) Act, 1956**

The ITP Act addressed sex trafficking as well as commercial sexual exploitation, commonly called as prostitution or the sex trade. The current ITPA is liberal and victim- friendly, although it has not been implemented with that spirit and some improvements are needed. According to it, an adult person (woman or man) on her/his own, in premises which are not public, can sell her/his own (not that of others) bodily sex (not pornographic material) to a heterosexual (Sec. 377 being under consideration) person. It is not a punishable offence.

However, there are certain things which should be followed, such as, it is to be done out of 200 meters radius from educational institutions, hospitals and places of worship, without attracting attention for prostitution by words, gestures or willfully displaying the person.

Under this act, a woman arrested under Sec. 7 or 8(a) need not be punished (Sec. 10). She may be given an opportunity to get rehabilitated. Moreover, running an organized sex trade is illegal, therefore, following are punishable offences under ITTPA:

- ❖ Keeping or managing brothel (Sec. 3)
- ❖ Pimping on other person's prostitution (Sec. 4)
- ❖ Procuring person for prostitution (Sec. 5)
- ❖ Detaining a person for prostitution (Sec. 6)
- ❖ Seducing one under one's charge for prostitution (Sec. 9)
- ❖ Providing premises for selling of sex or for keeping a brothel (Sec. 3 & 7).

### Changes in the IPC

Against the background of a shocking episode of gang rape and murder of a woman in Delhi in December 2011 and consequent public outrage, the principle criminal law of the country was changed (Criminal Amendment Act, 2013). The sections dealing with rape - Sec. 375 and 376 were changed. Provisions against stalking acid attack and voyeurism were also added in the law. In the cases of sex trafficking, these provisions have become very useful. As the victims of labour trafficking often suffer from sexual exploitation, these provisions are useful in such cases as well. The previous progressive amendments have been retained in the amended law. For instance, if a victim of rape states that she did not give consent to the sexual intercourse, then the Court shall presume that the consent was absent and it becomes the responsibility of the accused to prove that she had consented. Most cases of sex trafficking involve multiple and repeated rape and the provisions of Sec. 375 and 376 are very useful.

## Procedural Laws

There are two main procedural laws that the anti- trafficking interventionists are required to know. The Code of Criminal Procedure 1861, revised in 1974 and the Juvenile Justice Act, 2000, revised in 2006 and 2015.

### The Code of Criminal Procedure (1861)

Commonly called as the CrPC, it is a well known and implemented law that states the procedures to be followed in the case of crime investigation, trial and punishment. It addresses the adults. In matters involving persons under 18years, one has to go as per the Juvenile Justice Act. Criminal injuries compensation is also mentioned under Sec. 357 & 357-A (earlier Sec. 545, CrPC).

As a result of an order issued by the Supreme Court of India, in the case *Ankur Shivaji Gaikwad vs. State of Maharashtra S.L.P. (Crl.) No. 6287 of 2011*, a paradigm shift occurred in the approach to victims. They were held entitled to reparation, restitution or compensation for loss or injury suffered by them. For that purpose, Sec. 357-A was added in the Code of Criminal Procedure (CrPC) in 2009. Subsequently, several states passed their own laws and schemes for criminal injuries compensation. These had some special features as follows:

- ❖ Power to decide quantum
- ❖ Due even if accused is untraced
- ❖ Due even on acquittal or discharge
- ❖ Appeal allowed

Since the state laws had disparities, the Supreme Court in *Suresh vs. State of Haryana*, Criminal Appeal No. 420, 2012,

suggested that the standard followed by the law of the State of Kerala may be followed.

### **Juvenile Justice Act**

First made in 1986, the law is essentially a procedural law that deals with two situations. First, wherein, children have violated a law and committed an offence. Second, it addresses the problem of children found in need of care and protection. It aims at making the procedure child- friendly. It does not provide to punish children, even if they have come in conflict with the law. A child in need of care and protection is to be produced before a Child Welfare Committee which will look into the situation of the child, study the home background and take a decision. Children rescued from the sex trade or a labour exploitation are taken into custody by the police and produced before the CWC under the JJ Act. All stakeholders working against child trafficking, especially those who assist the police in conducting rescue operations and provide shelter-based assistance, have to work closely with the CWCs and are expected to have sufficient knowledge of the JJ Act and the procedures therein.

### **POCSO Act, 2012**

Protection of Children from Sexual Offences (POCSO), a specialized law on sexual offences against children, was enacted in 2012. It has introduced a variety of sexual offences against children and elaborated procedures of dealing with them. There is a basic awareness about the law among the activists, who work for child protection and the service providers, who provide services to the victims of sexual offences. These organizations have in their project areas created a basic awareness about

POCSO at the police station levels. As it is a very elaborate and progressive law, anti-human trafficking organizations use it in addition to the other laws like IPC, JJAct, CLA, etc.

### **Revised Child Labour (Prohibition and Regulation) Act**

The CLA from 1986 to 2016 prohibited the employment of children below 14 years in hazardous occupations and establishments. It also laid down the working conditions for all children up to the age of 18 years. The 2016 revision of the law is criticized by child rights and child protection organizations. They call it regressive as it allows the labour by children below 14 years, if the establishment is run by their families.

### **The CARA Guidelines**

On the background of a shocking exposure of rampant malpractices in adoption, the Supreme Court of India gave several directions and guidelines known as the Central Adoption Regulation Authority – CARA guidelines. It was reported that adoption practice was being misused for trafficking of children. The recent changes in the CARA Guidelines have made it almost impossible for foreigners to adopt Indian children.

### **Amendment of Transplantation of Human Organs Act, 1994**

It provides for non-commercial organ transplantation and forbids organ transplantation among unrelated persons, in case of living or brain dead persons, by any unauthorized individual.

## **Prevention of Money Laundering Act, 2002**

India's Prevention of Money Laundering Act, 2002 covers sex trafficking related offences as qualified for confiscation of property of the convict. Under chapter 2, section 3, it mentions that "whosoever directly or indirectly indulge or knowingly assist or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering".

## **Absence of Tracking Systems**

While there have been several claims of anti-human trafficking activities, such as rescue and rehabilitation mostly undertaken by AHT-CSOs, there is little authentication of the claims. Considering the fact that post-rescue operation is an elaborate and demanding task, the claims in terms of numbers, whether in sex or labour trafficking, remain unbelievably large, especially in absence of concrete evidence. The rescue and post-rescue scenario displays low level of professionalism. Re-trafficking of the rescued victims is always a possibility. Even if a rescue is understood as merely an activity of temporarily shifting the physical location of a trafficked person, the figures claimed appear too big.

## **Impact of Intervention Not Measured**

A few civil society organizations on either side of the border have been consistently working against trafficking of children. State and non-state funds have so far been spent on the AHT work. The international sponsors have also financially supported the civil society sector. However, there is a serious

shortage of a professional and scientific validation of these financial supports.

“NGOs mobilized a lot of resources in the year of 2014. A total of 454.7 million Rupees was mobilized by 27 NGOs, affiliated with Social Welfare Council for 63 projects, in the year of 2014. Of the total funding mobilized, 97 percent came from the external donors, while about 3 percent was internal ones. Among the 27 NGOs listed in SWC, the five-top NGOs that mobilized maximum budget in the year of 2014 include: CWIN (38%), Maiti Nepal (14%), WOREC Nepal (10%), Shakti Samuha (5.5%) and KI Nepal (5%)” (NHRC Nepal P. xv).

The Nepalese AHT NGOs seem to have mobilized impressive external resources (on an average 16.84 million Rupees per organization in 2014).

## The Challenges

The Nepal NHRC Report notes the following challenges:

- ❖ Amend the Human Trafficking and Transportation (Control) Act, 2007 in the changing context of labour migration, trafficking for marriage and other purposes. Special consideration is needed in areas of witness protection measures, definition of organized criminal group and obstruction of justice during and after the court proceedings.
- ❖ Effective implementation of the Act, especially in areas of rescue, repatriation and rehabilitation of the survivors, by increasing the budget to the District Committees, NGOs and Embassies. Also develop

cooperation with the different national and international organizations.

- ❖ Increase the efforts to enforce the laws by strengthening the capacity of WCSCs, CIB and Nepal Police with allocation of adequate budget and human resources.
- ❖ Develop the functional capacity and professional efficiency of prosecutors, judges and legal professionals to reduce the unsystematic and ineffective investigation, prosecution and adjudication of human trafficking **cases**.
- ❖ Increase the efforts to maintain the privacy of the Special Type of Cases such as rape, abortion, sexual violence against women, human trafficking, incest, violence against women, children's cases in the juvenile courts or juvenile bench, cases related with HIV infected people and so on. Orientation to criminal justice actors, prosecutors, judges, including other concerned individuals, is needed.
- ❖ Increase the budget allocation for the implementation of the Act and disburse it through the District Women and Children Offices so as to increase the accountability at the district level.
- ❖ Increase the conceptual clarity about the differences between the crime of human trafficking and offences envisioned under the FEA 2007 among the criminal justice actors, including judges. (NHRC Nepal P. 109)

### 3

## DATA ANALYSES

This study was limited to the phenomenon of I-N Cross-Border trafficking along the Gorakhpur city and district. As the explorations in Gorakhpur necessitated, further data was collected from Mumbai in India and Kathmandu in Nepal.

Much has been said and written about the trafficking of young girls from Nepal for the sex trade in India. Several narratives by Nepalese victims have been circulated across the world in the past two decades. However, there is little information and data about the trafficking of adolescent Nepali boys to Indian metropolises, mostly for labour. The study ‘Cross-Border Trafficking of Boys’ of March 2002 by WOREC, Women Rehabilitation Centre, Gaushala, Kathmandu, supported by ILO-IPEC Trafficking in Children-South Asia (TICSA), is an exception. Although, this work has made no observations on the claims of this study or its methodology, it does succeed in describing a few things about a group of boys, belonging to two southern districts of Nepal - Mahottari and Dhanusha, who were on their way to India and were intercepted and rescued.

As these areas are acutely explored by researchers, journalists or governments, no ambitious study is possible or advised as

the selection of an appropriate research design is practically impossible. A comprehensive scientific study pre-requires adequate knowledge about the phenomenon, starting from basic questions as to where is the information, whom to approach for the same, and what questions to ask. A good study can only be undertaken after a Rapid Assessment study, preferably an exploratory study with field observations as the tool of data collection.

A general observation cited on Indo-Nepal border is the massive movement of Nepali boys to some of the metropolitan areas of India in search of wage opportunities. However, it is not referred to as human trafficking. Many of them call it migration. The fact that between India and Nepal, immigration laws and procedures practically do not exist and that the crossing of the border for the sake of 'working gainfully' is formally, these movements of the boys cannot be called as illegal migration.

There exists a lack of conceptual clarity over the concepts like voluntary migration and forced or coerced migration. Conventionally, it was believed that people migrate out of choice and for betterment of life. The expansion of markets, urbanization, industrialization, imperialism, colonization, natural and manmade disasters and ethnic and political hostilities have destroyed local sustenance and self-sufficiency of communities, especially the peripheral ones. This forced movement, described as uprootment, eviction, displacement etc, is very different from conventional voluntary migration. It is also referred to as coerced or distressed migration. Equating them is a conceptual error.

Coerced or distressed migration is not the same as human trafficking. A person suffering from coerced or distressed migration may not necessarily be a trafficked person. As a corollary every trafficked person may not be a victim of forced, coerced

or distressed migration. She may have voluntarily left her place or origin in search of a better life, as she was being deceived by the trafficker. Trafficking presupposes a conscious activity on the part of an agent (the trafficker), who undertakes it to benefit by subjecting a person (victim) to trafficking. Coerced or distressed migration does not presuppose such an agent. Nevertheless, these phenomena are extremely close to one another and sliding from coerced or distressed migration into trafficking is very common.

The interviews with the operators, stakeholders and the victims highlighted that children below 18 years are routinely crossing the border, either on their own or escorted by their parents, relatives or other acquaintances. These movements are referred to as migration, not trafficking, by most actors.

## Stories from the Indo - Nepal Border

### Purvanchal Gramin Seva Samiti (PGSS), Gorakhpur

PGSS has been working towards empowerment of marginalised especially the Dalits, women and children through the process of awareness, advocacy and collective actions for raising their socio- political, educational, economic, health status and promotion of safe environment. They run CHILDLINE and open shelter in Gorakhpur.

The research team interviewed three boys at the Centre of PGSS at Gorakhpur city and studied the available information of some boys who were given transit shelter in PGSS' open shelter in Gorakhpur:

#### ❖ Govinda (Age-15)

Govinda, a Nepalese boy, was found by railway police and handed over to CHILDLINE Gorakhpur. His

mother's name is Belmati Devi. He is from Kholagao village, Gavis Panchayat, Kathmadu. Govinda has studied up to 5th standard in his village school. His mother wanted him to go to school unlike his father Dilbahadur, an alcoholic. His father eventually managed to stop him from going to school.

He wanted Govinda to work on a local apple orchard. Govinda did not like working in the orchards but every time he skipped it, he was beaten up by his father. After one such brutal beating, he ran away from home.

Govinda's uncle Balbahadur used to beat his father over his drinking habit. Balbahadur was in the construction business and Govinda's father worked under him. His father had worked in Dehradun in India in construction activities. Govinda had been to Mumbai and Punjab and worked in Delhi and Kolkata. He complains that in all these places he was made to work but not paid. Hence, he ran away from all those worksites. He has one brother and two sisters. His sisters are married. When he was '*caught*' by the police, he had no money on him. He claims to have spent it.

He reported that he saw the earthquake on TV and is assured that his house has also collapsed. He was willing to reveal the details of his family members and hopes that his sisters will certainly recognize him.

After leaving the house, Govinda worked in Gorakhpur for 4 months. One truck driver gave him food and gave him the work of changing tyres. He gave him food but no money. The work was heavy and difficult. Govinda ran away from that place. He subsequently worked in

Muzzhafarpur and Piplichowk in India in an eatery. Govinda states that there are some Nepali boys who have crossed the border and come to Gorakhpur. One could find them near a medical store, near the Gorakhpur railway station.

Several years ago, when he had run away from home for the first time, the police had found him and sent him to a Home by CWIN, Nepal. He stayed there for five days after which he was handed over back to his parents. Now, he has come back to Gorakhpur and has not gone home for over 2 years.

❖ **Suraj (Age-13)**

Suraj has studied up to the 4th Grade. He comes from village Halkodi, near Surand, Magtodi (Mahottari) District, Nepal. Suraj has a younger brother and a younger sister. Both go to school. His father was a casual labourer in construction industry. His father had gone to Malaysia for work through an agent. However, the things did not work out well and he came back.

Then his father started working in Mumbai. He used to come home once and sometimes twice a year. However, later he stopped sending money to the family. One day Suraj's uncle suggested that he should take up some work during the school holidays to support his family. Agreeing with him, during the Baisakhi festival holidays, he accompanied his uncle to a dhaba named Rambahu hotel, near the Gorakhpur railway station. His uncle left him there alone the next day, under the pretext of having fallen ill and wanting to go home for treatment. He never came back. Suraj's work at the dhaba involved working

from 6 am till 9 pm. He did not like the idea of working but did so as he thought he would be able to help the family. He was often sent to buy materials for the dhaba. On one such visit to a shop, he was '*caught*' by the police. Suraj was uncomfortable at the mention of his uncle. He wants to go back home and restart his schooling.

His wages were fixed at Rs. 100 per day and 4 meals a day. Since he had worked only for a week before being *caught* by the police, his wages remained with the owner of the dhaba. The police handed him over to CHILDLINE who took him to the court (Child Welfare Committee). From there, he was brought to PGSS shelter. He likes being at the PGSS shelter but wishes to go back to the family and resume formal education.

#### ❖ **Milan (Age-Unknown)**

Milan lives in Dalma village with his grandmother and brother. His elder brother has left home to work in Chennai in India as a cook in an eatery. Milan had studied till 6th standard. His parents had migrated to Siliguri. His mother has passed away. His father works in a cement industry. As his father was abusive, Milan ran away from home. He landed up in Bengaluru where he knew no one. One girl, whom he calls didi (elder sister), has a house in Bengaluru. Apart from her, he has no support system in Bengaluru. Milan says that many boys aged between 15 and 26 years from his village and surrounding villages go to Delhi in search of work. They are also found in Bengaluru. He does not know what work they do but knows that some older people from the village take them. Milan likes to play football, watch movies and cartoons.

The PGSS has worked with over 50 cases of such children in the past two years. In most of these cases there is an agent, sometimes referred to as Chacha (uncle), who identifies, tricks and lures children, convinces their parents and sells them to the dhabas for profit. They drop the child at the dhaba, tell them that they would come back but never do so. In other cases, children run away from home due to the harsh treatment.

These children are then sent across the border and made to work as domestic help, cleaners to truckers, cooking assistants to the cooks in the roadside eateries and as waiters and cleaners in restaurants. They are subsequently sent to Bengaluru, Delhi, Mumbai and Kolkata.

During the interviews of children, rescued by the CHILDLINE or the police, most of them unflinchingly stated that they were caught (arrested) by the police. It is a perception among the children that they had done something wrong or illegal and had been punitively arrested by the police.

### **Children Referred by CHILDLINE Bengaluru**

The social workers from the open shelter of PGSS gave information from their files regarding few children who had at some point stayed there:

**Rohit**, 16 years old, from Mohatari district of Nepal, had run away from home to earn. He was identified by Gorakhpur CHILDLINE. His family was contacted. The family visited the shelter and took custody of Rohit with the orders of the CWC Gorakhpur.

**Arjun**, 15 years old, reportedly moderately mentally challenged, from Rupandhehi, Nepal, is a 'runaway' child. He was referred to Maiti Nepal with orders from CWC for family tracing, restoration, and rehabilitation.

**Ashutosh**, 17 years old, from Kathmandu, Nepal, is mentally disabled. He was allegedly brought to Gorakhpur for treatment. Then, he lost contact with his family. He was found wandering unescorted by CHILDLINE Gorakhpur during its outreach work.

**Shankar**, 15 years old, from Banke, Nepal, was mentioned to be a runaway child. He was found wandering unescorted by CHILDLINE Gorakhpur within two days of arriving in Gorakhpur.

**Suraj**, 13 years old, is from Nawalparasi, Nepal. His mother had expired some time ago. His father was physically disabled. Suraj has run away from home seven times and was handed over to Maiti Nepal. Initially, Maiti Nepal sent him back home, until the family said that it did not want him back. His uncle and aunt stayed on the Indian side of the border. His siblings were in Nepal. In the past, his family had stayed in India for over 10 years.

**Akash**, 12 years old, is from Sajandiha - Nepal. His Father lived in Kathmandu. He was found in Thane. He had a stepmother who used to ill treat him with physical beating and starvation. She constantly asked him to leave the house and live on his own. She took good care of her own biological children. As he was unable to endure that treatment, he 'ran away' from home. In the past, he had 'run away' from home three times.

**Govinda** is from Rupandhehi, Nepal. He left home to earn a living. As soon as he arrived at the Gorakhpur railway

station, he was intercepted by the railway police. He was placed at the PGSS shelter. Maiti Nepal helped locate his family. His parents came to PGSS shelter. They declined to take him back saying that they could not handle him. They wanted PGSS to keep him in their shelter forever.

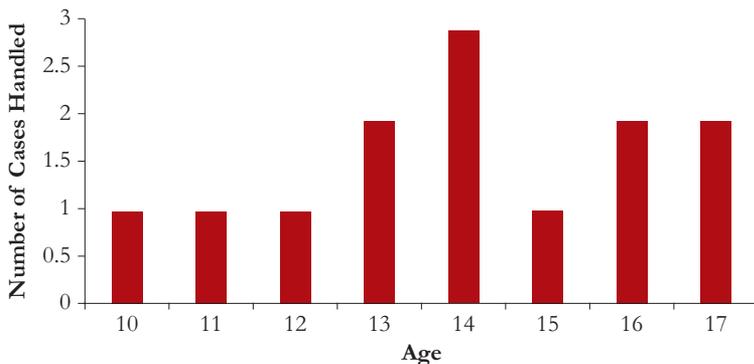
**Sunil**, 12 years old, is from Dang in Nepal. Once when he and his family were travelling to meet his aunt, he got down from the train to fill water. Just then the train left the station and he got separated from his family. He was handed over to Maiti Nepal with orders from CWC for family tracing, restoration.

**Mukesh**, 10 years old, is from Parideha, Nepal. Due to frequent physical abuses from his father, he left home. He was found on the Gorakhpur railway station unescorted. He kept repeating that he did not want to go to school.

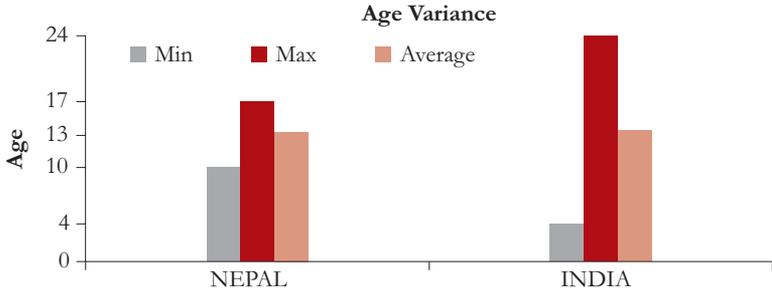
These children were from the following districts:

**Cases Handled: CHILDLINE-PGSS (Jan – Dec 2014)**

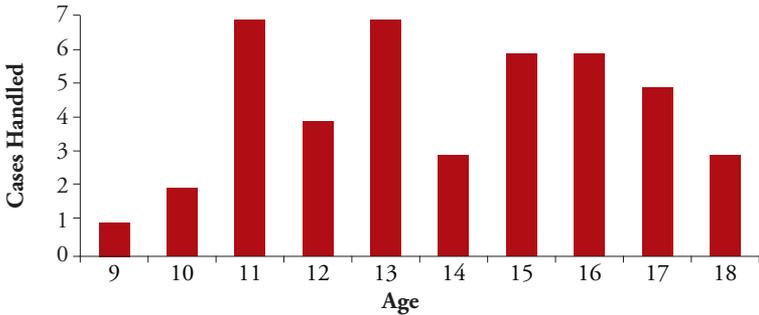
Age wise distribution of the number of cases handled. Out of the 13 children, one was transferred to PGSS by Maharajganj CHILDLINE as the parents of the child had filed a missing child complaint. The rest of them were intercepted by the GRP or RPF as they were unaccompanied children. In a single year (Jan to Dec 2014) CHILDLINE – PGSS handled 13 cases of children from Nepal. Out of the 13 children, one was a girl child.



### Dongri Age Comparison



Cases Handled: CHILDLINE-PGSS (January 2016)  
Age wise distribution of the number of cases handled.



Bakeshwari, Parvath, Mahendranagar, Dhang, Parsa, Kapil-Vastu, Lumbini, Bara, Nawalparshi, Banke and Gorpali.

Out of 15 cases handled from January to May 2013 by PGSS Gorakhpur, 9 were taken into protective custody as unaccompanied children by the GRP Gorakhpur.

4 children between 12 and 14 years were referred by the CWC, Bengaluru.

Out of these 15 children, 3 were girls between the age 14 and 15 and had been taken into protective custody as unaccompanied children by the police.

1 child each was referred by CHILDLINE Agra and Ajmer.

As per the records of PGSS, all the above 4 children referred by CWC Bengaluru, were from neighboring villages of Nepal and were taken together. The PGSS worker observed, “When they came from Bengaluru they had only clothes and toiletries with them. None of the children revealed the name of the agent who had brought them from Nepal. In the past 3 years, they have gone home only once. They told us that they used to send money back home. However, there was no record of how and through whom did they send money home. They all worked. They sold plastic hair clips. They used to go to wholesale shops and pick up stuff and sell it. They earned Rs 3000 monthly. They used the money they earned for their daily requirements and sent the rest back home. At the time of rescue they had no money with them.”

#### 44 Cases Handled by CHILDLINE

Out of these 44 children, only 5 were girls. Out of the 5 girls, one was rescued from an orchestra party in Deoria; one from domestic work; one who had runaway with her boy friend; one was referred by CHILDLINE Patiala and one by CHILDLINE Noida.

Out of these, 4 children were intercepted by the GRP in February 2015, while they were being taken away by a person to work in a factory in Delhi. They were between 11 and 12 years and were from district Thausa. 13 boys, between the age group of 11 and 17 years, were referred by the Bengaluru CWC. All these 13 boys had been in turn referred by Bengaluru Don Bosco CHILDLINE.

*Remarks: The red stars in the map above represent districts from where the rescued children originate. There are more districts/ regions that need to be mapped. As the data is collected from the children, the information may not be complete. This made identifying some of the districts impossible.*



Following are the districts in Nepal to which the boys belonged: Rotahut (6), Kapilwasthu (3), Bhutol, Thausa (4), Badni, Katmandu (4), Sahajandiha, Dhan, Parsi, Nawalparashi (6), Rupendehi, Goed, Sonal, Dumni Bahel, Mohtari, Bhara, Sirsat, Bhardhiya, Banke, Kelali, Madthadi, Bespera.

### Case Study of a Nepali Girl

*This case is shared by PGSS CHILDLINE. It is about JT, 15 years old, who is the daughter of ZA. She is a resident of Basantpur, Nepal.*

In Gorakhpur, on 15th May 2015, a few onlookers spotted a man bullying and harassing a young girl, early in the morning. She seemed to be around 15 years old and was unescorted. The public snubbed that man and made him go away. The girl remained there until a newspaper vendor took the initiative of taking her to the office of CHILDLINE, Gorakhpur.

CHILDLINE presented the child to the Child Welfare Committee, constituted under the Juvenile Justice Act, 2000.

The CWC asked for inquiries regarding the child and issued an order to keep her in the local Children's Home. She was interviewed, on the same day she was spotted, by CHILDLINE counselor. The counselor reported:

JT who is a resident of Nepal was working at the residence of AK and his wife RA, as a domestic help. The child narrated that RA brought her from her village in the previous winter and made her work in her house as a domestic help. JT's mother had come to meet her in the previous week. JT wanted to go back home with her mother but her mother (ZA) refused to take her back home. Upon that JT tried to run away from RA's house in vain. RA then, tied her hands and kept her in captivity in the house.

JT was often physically abused by the family, over her work. She kept trying to escape. Once she was successful in her attempt.

According to the CHILDLINE counselor, the physical condition of her hands and legs showed that she was engaged in hard physical work. The counselor also suggested that it was important to talk to the family for whom JT worked. Also, the mother of the child should be admonished and warned against placing JT as domestic help in anyone's house, as she is too young to work. She should be sent to school for her bright future.

On 16th May, 2015, a local newspaper published the case details, revealing her personal identity. On 18th May, CHILDLINE, Gorakhpur wrote to the Civil Hospital, Gorakhpur, seeking the child's medical examination and age verification tests. Within 5 days of her custody, the CWC ordered that she may be sent to Maiti Nepal, along with the Nepalese police.

On 27th May, her mother submitted a letter to CWC stating that she had requested RA and AK to look after her daughter, while she had gone to Bihar for a week in search of work. She claimed that JT had fallen in the custody of CHILDLINE by mistake and that the inquiries had given stress to a nice and helpful couple like RA and AK. She urged the CWC to spare the couple and sought the custody of JT.

She also stated that she is a resident of Nepal. She has been staying with her children in Nepal after the demise of her husband. She is the sole earning member and head of the household. Her elder son is an alcoholic and beats his sisters often. The situation became worse after the earthquake of 2015. So, she left home in search of work. She approached one of her neighbours, RA and AK, for a short stay. Soon she decided to make a week's visit to Bihar to look for work and return to Gorakhpur. As she herself was in stress she requested RA and AK to look after her daughter JT for a week's period. As the couple was very kind and wanted to help her in her crisis, they agreed. A week later, when she returned, she learnt that JT had walked away from that family and was in the custody of CHILDLINE. She expressed her regret that she had to bother RA and AK and in return the couple had to face several allegations and inquiries. She requested CWC to spare them from any further scrutiny, as they only wanted to help her.

On 27th May, the CWC Gorakhpur took an undertaking from JT's mother that she will take good care of JT, will not send her for work and focus on her education. Subsequently, JT was handed over to her mother.

### **The Police/Anti-Human Trafficking Unit (AHTU)**

During an interaction with the Senior Inspector of AHTU at Maharajganj, few cases were highlighted. The AHT Cell was constituted in Maharajganj in 2011. It has since then been coordinating its activities with labour department, CHIDLLINE and SSB. In 2012, in Sonauli police station area, 6 cases were registered (5 of which were under the Immoral Trafficking Prevention Act and 1 case under the Sec. 370/371 of IPC) against Mr. NK, Mr. MA and Ms. RK. Two residents of Naval Parasi, Nepal were rescued from MA and RK's custody. The accused were tried in the court and were sentenced to 7 years of imprisonment and a fine of Rs. 10,000 each.

In June 2013, a case was registered under IPC and ITPA-1956 against DC. Five women, between 18 and 26 years old, were rescued from his captivity. They were intercepted at Anandnagar Railway station, while being transited by the Inter-city train.

A case under IPC and ITP Act-1956 was registered against Mr. TP, a resident of Rupandehi, Nepal. Two Nepali women who were being transited in a bus, to traffic them to the gulf countries, were rescued. The charge sheet has been filed. At the time of data collection, the case was under consideration of the court.

Under 'Operation MUSKAAN', in collaboration with the Child Protection Officer and CHIDLLINE, a campaign was run between 1/7/2015 and 31/12/2015. In this campaign, 48 children were freed. In another campaign, between 1/1/2016 and 28/1/2016, 27 children were rescued and handed over to their parents.

## Vikalp CHILDLINE

Vikalp CHILDLINE based in Maharajganj was started as a sub-centre in July 2011. The team mentioned that in January 2016, as part of ‘OPERATION SMILE’, out of the 62 children identified, 6 were from Nepal and they facilitated their repatriation.

According to the CHILDLINE team, Naval Parasi Narayan Ghat, Nicchalwa, Nautanwa and Pokhara are some of the districts from where children go missing or are trafficked. The CHILDLINE team spoke about agents luring young children and women with promises of well paid jobs and sometimes marriage. The team expressed the need for more training on identifying trafficking. It stated that a lot of awareness has to be created among the different stakeholders, especially the CWC, Police and Railway Police, who work on the frontier of anti-trafficking, so that they could identify the cases of trafficking in a larger scale. The VIKALP Team also expressed the need for training in data management and digitization.

## Other Cases

Along the Indo-Nepal border, a various people shared stories of child trafficking. Some were common stories which were quoted repeatedly. Among them the prominent ones were:

- ❖ The sex trafficking of Nepalese girls to the red light areas of Mumbai, Delhi and Kolkata
- ❖ Trafficking of Nepalese children, especially girls, for the circus industry as the acrobatic performers
- ❖ Trafficking of Nepalese children as domestic help and for other household manual work to U.K., especially to the

rich British families. This has increased after the massive earthquake of 2015. People indicated that most of the agents were from northwest states of India, like Punjab.

- ❖ The increased trafficking of Nepalese children, especially boys, as labour to Tamil Nadu for the brick kilns in Coimbatore. Also, the trafficking of boys and girls as domestic help in the fast prospering cities like Bengaluru. The growing informal bag making industry of Bengaluru was also mentioned by many as a new destination of trafficking.
- ❖ Few people also mentioned about trafficking of children for the sinister orphanage business. However, no one could quote any first-hand knowledge or exposure about it, except a case which had received some newspaper publicity, as a Nepalese charity was involved in recruiting the children from Nepal.

The first two types of cases have been well documented. The border communities as well as the anti-trafficking CSOs from both the countries have produced sizeable evidence in support of such criminal activities. With regard to the trafficking of children for brick kilns in Coimbatore and parts of Kerala bordering Tamil Nadu, some cases were exposed by the media few years ago. Although, the newer trends of trafficking children to UK were cited, there is no credible evidence.

It was cited that few agents from Punjab were selling the children to the rich families in the UK. These agents target the children whose family was affected by the 2015 earthquake. The UK-based periodical, *The Sun*, in the first week of April 2016, in its report of an undercover operation, exposed one such agent from Punjab who claimed to have sold several

such children to UK. He was offering the Nepalese and Bihari children to rich British families for about 5,250 British Pounds each. This report corroborated the stories shared by some of the people during the data collection.

It was also shared that several children from the bordering districts of Nepal and some backward districts of Bihar are trafficked to the southern states, like Karnataka, for labour. The middle class has created a huge demand for bags and purses and the bag-making industries are the child traffickers' most popular destination. It is interesting to note that the traffickers make money both ways. On one hand, they sell these children to the factory owner. On the other hand, they also collect money from the poor parents when they take the custody of the child, by assuring the parents an attractive well paying job for their children. However, in some cases, the agents make payments to the parents in order to get hold of their children.

In June 2013, six such children rescued from a bag-making factory in Bengaluru were sent to Child Workers in Nepal (CWIN), an NGO for rehabilitation. The children were originally from Sanatpur, Rajapur, Jamunia, Gaur, Paurai etc. in Nepal.

A few months earlier to this rescue operation, thirty children were rescued from a bag factory in Bengaluru. The traffickers hunt children from various parts of India. But they find it profitable to traffic children from Nepal due to the absence of immigration laws. Also, the impoverishment of the communities in Nepal makes it easier to get the custody of these children from their parents.

The social workers and a few government officers from both sides of the border mentioned that in the name of placing their

children in boarding schools, the traffickers get possession of the children from their parents. While most of these children are trafficked into the informal exploitative labour sector, some are given away to charities that run orphanages.

The researcher had visited Cambodia in 2015 and was aware of the growing scourge of orphanage tourism there. The researcher was also well aware of the widespread sex tourism, in which the predators travel across continents to poorer countries to have easy access to the children in orphanages in order to have sex with them. Some unscrupulous elements are now engaged in criminal activities of running orphanages, in order to provide to the tourists paid and easy access to these children. Several such rackets have been busted by the Indian police (e.g. Goa). The researcher wanted to explore if the local community was aware or had noticed any such sinister activity. The local communities did not have enough information about such activities. They guessed that subjecting these children to religious conversation or servitude of some kind could be the probable reasons. A couple of well informed officers mentioned about Dalbahadur Phadera, a Nepalese owner of an orphanage, Himalayan Orphanage Development Centre, Humla. He was allegedly involved in supplying Nepalese children to a charitable orphanage Michael Job Centre in Tamil Nadu. The raid at Michael Job Centre showed that most children were not orphans but were taken from their parents in Nepal on the pretext of giving them free residential education. Dalbahadur was alleged to have taken money from the parents.

### **Gorakhpur and Other Bordering Districts**

Migration theories have stated the importance of travel and trade routes. In the modern times, the railway routes represent

most of the migration routes. The same has been observed about the destinations of the missing children, who are found in cities living on the streets and working in the informal sector, exploitative wage sectors, unescorted by parents or responsible adults. With regard to the migration and trafficking from Nepal to India, three Indian States are prominent, namely - Uttar Pradesh, Bihar and Uttarakhand. In Uttar Pradesh, the role and importance of Gorakhpur remains unparalleled.

Gorakhpur is a city in Eastern Uttar Pradesh, located along the banks of river Rapti. It has a population of 6,73,446 (according to 2011 census). It has a Municipal Corporation. It is located directly on the Indian border with Nepal. It is the headquarter of the North-Eastern Railway from where 69 trains originate and 70 trains terminate. It handles 189 trains and 2,70,000 passengers daily. It has ten platforms. It also possesses the world's longest railway platform running into more than a kilometer.

Several long distance trains go from Gorakhpur to most of the important cities and metropolises of India, such as Kanpur & Lucknow in Uttar Pradesh, Hissar in Haryana, Chapra in Bihar, Asansol in West Bengal, Ranchi in Jharkhand, New Delhi, Ahmedabad in Gujarat, CST/Bandra, Lokmanya Tilak Station-Kurla, Pune in Maharashtra, Secunderabad in Andhra Pradesh, Yashwantpura in Bengaluru and the southernmost Thiruvananthapuram (Via Bengaluru) in Kerala.

However, long distance buses from Gorakhpur are not very common. Nonetheless, private and public buses connect Gorakhpur city to major cities like Agra, Delhi and Varanasi. The short distance buses between India and Nepal also play an important role in the movement and dispersal of the migrants and trafficked persons landing at Gorakhpur.

Sonauli, a popular border crossing point, is approximately 70 km from Gorakhpur. It is located 3 km south of Bhairava on the Indian side (the place on Nepal side is called Belahiya). Trains run between Gorakhpur (India) and Belahiya (Nepal), covering a distance of 189 km.

The border gate is 24 hours open and closes for the motor vehicles at 10 in the night. The gate has little significance as there are no immigration procedures. While private vehicles may be checked at the crossing point, there is no checking of passengers travelling by trains.

The districts of Nepal that share border with UP are Navalparasi, Lumbini, Taulihawa, Krishnangar Koilabas, Neplaganj, Rajapur, Prithivipur, Dhangadhi, and Mahendranagar. The districts of UP that share border with Nepal are – Bhairava, Siddharthnagar, Balarampur, Baharaich, Lakhimpur Kheri.

## Observations by Key Stakeholders

Following key stakeholders were interviewed: Representatives of voluntary sector organizations, Railway Police, Coolies at Gorakhpur Railway station, District Protection Officer, Manager of the bus station at Gorakhpur, youth who live on the Gorakhpur railway station, etc. They contributed the following observations:

- ❖ An Anti-Human Trafficking Unit (AHTU) was set up in Gorakhpur in 2012. Currently, it has 5 staff members, all women. The current focus of the AHTU is on missing children.
- ❖ The AHT stakeholders observed that as a result of the escalated cross-border vigilance over the last four

years, trafficking to Indian states via the land border has decreased significantly. Currently, most of the trafficking happens from Kathmandu, the capital city of Nepal by air. Trafficking to the Gulf countries forms a major part.

- ❖ Most of the trafficking via train occurs between Kushinagar and Mumbai route.
- ❖ The Nautanwa, Sonauli and Tutibadi in Maharajganj and Siddharthnagar border areas/districts on the Indian side and the Dhangedhi, Rupandehi, Navalparasi, Parsa, Kathmandu and Humla districts/villages from Nepal are indicated as the major source places and important routes to reach India.
- ❖ There is a train shuttle service from Bhairava to Gorakhpur. Lot of migration and trafficking happens through this route. Maheshpur and Bhairava districts are the crossing points. The Terai region was identified as high on trafficking.
- ❖ One youth stated, “In the past there used to be a whole bunch of children given away to the agents. The agents used to purchase a bulk ticket of anything up to 17 children at a time. Later, as the Cross-Border anti-trafficking vigilance, interception and questioning increased; the practice of joint ticket was abandoned. They now issue an independent ticket to each child. This is to show that the children are travelling independently and if intercepted the agent does not get into trouble.”
- ❖ Another youth mentioned, “When the GRP intercepts children who are unaccompanied, children do not give any information about their agents. They are trained to

remain silent. Those who speak up, claim that they are on their own.”

- ❖ The coolies of Gorakhpur railway station observed that as compared to the past, there had been substantial reduction in the number of young girls transited through trains. They observed that a number of children and young persons were being taken to Punjab for the cultivation of sugar cane and for maintaining the livestock.
- ❖ Another coolie observed, “Till the economic condition in Nepal do not change, children and adults will keep migrating and it will be very difficult to stop them.”

There were more observations by other people as well:

- ❖ Many job agencies are luring girls and young women in different parts of Nepal, especially rural Nepal with promises of jobs in India. They are actually trafficked for the sweatshops and the sex trade outside.
- ❖ Within India and Nepal, victims are forced to work in orchestra, circus, restaurants, and similar establishments.
- ❖ The traffickers who promise to send women and children abroad, confiscate the passports of these victims and keep them in their own possession for up to 3 years. This way they ensure that the victim would not run away or return to Nepal.

Children and women belonging to Thapa, Magar, Kurmi, Sukumvasi and also some Muslim families were regarded as highly vulnerable to trafficking for labour and sex trade.

Migration of Indian children from villages near the border to some Nepalese villages to work on brick kilns has been noticed, especially after the Gorkha earthquake. Most of the

stakeholders mentioned the following as the ‘root causes’ for large scale trafficking:

- ❖ Rampant unemployment
- ❖ Hilly terrain limiting the scope for commercial agriculture
- ❖ Political instability
- ❖ The 2015 earthquake
- ❖ Men culturally not used to work
- ❖ Rampant child marriages
- ❖ Long established practice of sending children away to remote places for work
- ❖ Cultural skills of the traffickers (communication, community membership, language)
- ❖ Criminal nexus with the local police

PGSS identified the following as the high trafficking points:

- ❖ Raxaul, Sitamarhi and Balamkinagar districts in Bihar
- ❖ Shravasti, Balrampur, Gonda districts in UP (There are trains to Mumbai and Bengaluru from here. From Barni, Domariaganj and Basti, there are direct trains to Bengaluru. The Amarnath Express takes the victims directly to Jammu & Kashmir).

Maiti Nepal had organized a Cross-Border AHT meeting in July 2015. In the meeting it set up ‘An Indo - Nepal Anti-Human Trafficking Committee’ with PGSS, CHILDLINE and MSS as its members. They chalked out an action program focusing on:

- ❖ Mapping of traffickers and their routes (regarded as extremely difficult task)

- ❖ Vigilance at railway stations and bus stands
- ❖ Safe migration awareness programs for adults
- ❖ Work with transport agencies
- ❖ Work with children living in or around the railway stations
- ❖ Awareness among the police (especially the Supreme court of India's orders on the issue of missing children)

### **Child Welfare Committee (CWC), Gorakhpur**

A Child Welfare Committee is a key agency constituted under the Juvenile Justice Act to intervene in the cases of children in need of care and protection. As a Committee, it enjoys the status of a first class judicial magistrate. The Gorakhpur CWC members in their interview laid stress on differentiating between migration and trafficking. They highlighted that lot of migration is being projected as trafficking which is not a fact.

They think that often the parents are actively involved in sending their children through the employment agents. In some cases, the families also migrate along with the children, while in some other cases they just drop the child at the place of work and return to their villages. Some members think that the traffickers/agents tutor the children and their family members as to how to respond to any kind of inquiry or interrogation when intercepted by anyone. The quintessential response they are tutored to give is that they have willingly sent their children through the agents and there was no element of force, buying/selling or cheating.

The traffickers ensure that they are legally safe. In many cases, the traffickers give the parents one month's advance salary to win over their confidence. Detailed probe reveals that the parents are actually not aware of what happens to their children and the conditions in which their children live after sending them through the agents.

A child rescued by PGSS stated that the trafficker does not remain with them. He boards the train only when it starts and alights a little before the train touches the platform or comes to a complete halt. This is to ensure that he does not get obviously connected with the children he is trafficking.

There has been a significant rise in the number of children who are reported missing from Nepal. They remain untraced as yet. The members also mentioned of incidences where girls from Nepal were being sold to orchestra groups, very often hired by families in Gorakhpur during weddings. These girls were forced to dance throughout the night and even during the wedding processions.

In the past three years, there are more cases of male children. The Gorakhpur CWC shared that whenever any Nepalese child is produced before them, it usually orders medical checkups, temporary placement in a local shelter facility, repatriation and handing over the custody of the child to the parents or to a fit institutions. The CWC further affirmed that handing over the child happens only after verification of the documents and other evidences. The CWC usually calls the parents of the child produced before them so as to hand over the custody. Alternatively, the CWC hands the children over to the representatives of Maiti Nepal through CHILDLINE Gorakhpur. The person in charge of the border force takes

a receiving note from Maiti Nepal on such handover. Maiti Nepal runs one of its many shelters in Bhairawa, Nepal.

### Interview with CWC Member

The member mentioned Banke district, Nuwakot, Sindhupal Chowk and Dang districts as high on child trafficking. He mentioned Gurug and Tamang among the communities that are most susceptible to getting trafficked. He observed that a trafficker is rarely an unknown person. Sometimes the trafficker gives an advance amount to the families of the person to be taken away. The entire process can be broadly broken into 4 to 5 phases such as convincing the family, receiving the girl, transferring the girl to a point, taking her over on a long journey and finally selling the girl to the destination agent. Each phase is handled by a different person. There is trafficking of children in the reverse direction also i.e. from India to Nepal. Some Indian children are used for carrying banned goods, like Chorex cough syrup from India to Nepal.

He suggested for an ongoing training of personnel engaged in anti-trafficking work. He also observed that there has been no training of these functionaries since September 2010.

### MAITI Nepal

*Following observations were made after the visit to Maiti Nepal's 'Safe Migration Centre' which is located in Rupandehi, Bhairava.*

In the absence of breakthrough in agriculture or industrialization and in response to the stagnated economy, young Nepalese belonging to the active workforce have made themselves available for migrating to other places, in search of

livelihood. The lack of state sponsored scrutiny and vigilance and widespread illiteracy, lack of education, appalling physical communication facilities etc., have made the country a fertile ground for the traffickers.

The young women and girls migrate mostly to the Gulf countries for domestic work, while boys go there for construction work. The girls who are almost illiterate and possess no employable skills are highly susceptible to exploitation due to their desperation to earn wages. This makes it easy for a trafficker who traps them by offering them a job in a foreign land.

Many Nepalese adolescents and children also go to India to work in Dhabas and eateries as helpers, hoping to learn skills in catering. This situation has facilitated the mushrooming of a large number of employment/recruitment agents in Nepal. They are largely Nepalese themselves. They promise to make the documents of citizenship, passport, VISA and locate a job abroad. One of the staff mentioned that “most Nepalese take great risk and put the money together in order to get all these documents done by the recruitment agents. Having handed over the money, they are left with little choice but to obey the instructions given by the agents.”

The agents promise them that they will fly to their destination country. Hence, they are asked to report to Kathmandu. At Kathmandu, they are told about a change in the plan and about crossing the Indo-Nepal land border by road to reach the Indian capital Delhi. They are also told that their documents have been sent to an agent in Delhi and they will get the documents only on reaching Delhi. As there are no significant immigration laws, the migrants do not face any legal hurdles nor do they get intercepted by the vigilance agencies.

Sometimes the migrants are told that they will be retained in Mumbai or Delhi for up to 4 months, where they can get “free job training”. After completion of the training, they will start their further journey to a foreign country.

Nepalese get citizenship only after they complete 16 years of age. To procure the citizenship document (Nagrikta Pramaanpatra), a Nepali needs the following documents:

- ❖ Letter form Village Development Committee
- ❖ Parents’ or any one parent’s Nagrikta
- ❖ Proof of age
- ❖ Birth certificate

The following districts of Nepal have been identified by Maiti Nepal as high supply areas for/migration/trafficking-Siddhupalchowk, Nuwakot, Makwanpur, Taplejung, Baglung, Pokhara, Chitwan, and Nawalparasi. Maiti Nepal works in 26 districts of Nepal and has identified Tamag, BK (Vishwakarma/Bhishwakarma), Nepali, Magar and Gurung communities from which young girls get trafficked on a big number.

In Maiti Nepal’s centre, located in Rupandehi, 15 to 20 parents approach them in a month to see if the child is in its centre as well as to seek help in locating their missing child. The police also come to this centre to trace the missing children or to seek the help of Maiti Nepal in tracing them.

Maiti Nepal observes that in the last five years there have been some definite changes in the situation of unsafe migration/trafficking:

- ❖ In most cases, the families are rarely in the dark over the fact that an agent is taking their family member, usually the

youth, to some distant destination. The families may not know the exact location of the destination or the other contact details of the establishment at the destination.

- ❖ The families are actively involved in sending their young members with the agents or relatives for getting them placed in a workplace.
- ❖ Even the young men and women who willingly go out with the agents do not ask any questions.
- ❖ The families hardly engage in any negotiations with the agents.

Thus, Maiti Nepal states the need for more intensive awareness programs on safe migration.

There is a noticeable rise in the incidence of domestic violence in Nepal. Consumption of liquor has become quite common among the Nepalese men. The men spend most of their income on liquor and that seem to be highly associated with physical violence on women. Women routinely get over-burdened under the pressure to run the family without the minimum required support from their husbands. They practically get expelled from their house and look for wage opportunities. Thus, the young boys and girls are easily made available to a recruitment agent.

However, unlike other parts of the world, the out-migration of the Nepalese workforce and their remittances back home have not led to any noticeable improvement in the economy or standard of living in Nepal. The high rate of illiteracy, low school enrolment and high dropout remain unchanged. This indicates that the quality of human resource within Nepal remains stagnated.

Further, the representatives of Maiti Nepal admit that over 90% of women and girls in their shelters do not tell anything about the agent/trafficker, not even his/her name. The girls rescued do not admit that their families got any advance money from the agent. They also do not complain of any agents asking them for money.

### Interviews with Two Young Women at the Center

#### Name: PG

PG is 33 years old and has 6 children (3 boys and 3 girls). She has never gone to school. As her husband was alcoholic, abusive and had no stable earning, she decided to leave her house to earn. Her children are currently in the care of her parents. An agent approached her brother offering a job in 'Kurdistan' (at the time of the interview we presumed it is a place somewhere in Turkey or Iraq - we are presuming she meant Turkey). Her brother invited PG to join as the agent was offering her a job as a domestic worker at 30,000 Nepali rupees per month. She was told that she would have to work there for 2 years before she gets to come back home. PG agreed to this arrangement. She stated that she had already paid 10,000 Nepali rupees to an agent to get her passport done.

*In 1923, Kurdistan was divided between the two countries that are Iraq and Turkey today. Since then, the Kurds have been divided between Iran, Iraq, Syria, and Turkey. They have struggled to build an independent nation.*

The agent took her passport under the pretext of getting the formalities for the VISA. While crossing the border to reach Gorakhpur, she had her niece with her who too had been offered a job in 'Kurdistan'. At the border in Gorakhpur, she was intercepted by border police. After rescue it was found that she did not have her passport. She explained that it was in the possession of the agent.

The agent seemed to have played the common trick. As per the travel itinerary that he had given to her initially, they were to fly to Kurdistan. Hence, the agent asked all three of them to report at Kathmandu. On reaching Kathmandu, she and her niece were told that there were some changes in the plan and that they would be required to cross the Indo-Nepal border at Gorakhpur by road and reach Delhi on their own. The agent instructed them to board a bus from Sonauli to Delhi. The agent did not accompany them.

The agent had properly prepared them. He told them that if anyone intercepts the border, both of them should say that they were going to meet their husbands in Delhi. When the police intercepted PG, it inquired with the brother and her niece independently. Her brother shared that both the women were his sisters and the three were going for site seeing in Delhi. PG and her niece however stuck to the story tutored by the agent. The police found obvious discrepancies in their statements and invited Maiti Nepal representatives to intervene.

PG did not know where Kurdistan is. She reiterated, “It is so difficult to get work and good wages in Nepal so I decided to leave my house to work hard and earn a living. Now my major concern is my passport. I have spent a lot of money to get it.” When asked if she would try to go back again, she only smiled.

**Name: LM**

LM is PG’s 20 years old niece. She has studied in a localschool till 3rd standard. She did not speak Hindi or English.

LM’s sister has gone to Lebanon to work as domestic servant and ‘reportedly’ has been there for the past 6 years. She observed, “I wasn’t sure if I wanted to go but my father convinced me. He gave the agent my passport. When I refused

to go, the agent told me I would not get back my passport. I had spent 10,000 Nepali rupees to get my passport done from another agent”.

LM shared that there are girls from her village and surrounding villages who have gone to Saudi and Lebanon. She reported that her agent was with them till they boarded the bus at Kathmandu and he directed them to cross the border and reach Delhi. “Our Agent in Nepal gave us a cell number. He said once we call that number the agent in Delhi will help us with the next part of our journey and send us to *Kurdistan* via Delhi. When Maiti team ‘caught’ us we gave them the number, but it is switched off. I am waiting to go back home.”

For both the women this was their first attempt to leave the country. According to Maiti, it is always the first timers whom they are able to intercept, as their body language is different. Both these girls and the boy possessed a mobile phone.

### Use of Technology

*The mobile phone facility has resulted in some changes in the modus operandi of the traffickers. Rather than personally accompanying the victims/ potential victims, they have been using cell phone (even WhatsApp) for communicating with their own criminal networks. The identification of victims was one indispensable task which in the past needed their personal presence while changing hands. These days, they send photographs through cell phones. They find it safe not to physically accompany the victims. That way they can skip being spotted in the Cross-Border vigilance and interception initiatives.*

“The regional office of Maiti Nepal will trace their family. If the family is found fit, the women will be handed over or else they will be kept in Maiti’s shelter facility and given employability skills.” said said one of the staff. If there are cases of boys, Maiti Nepal refers them to CIWIN as they have a shelter for boys.

### **District Child Welfare Board (DCWB)**

The DCWB is composed of individuals in their personal capacity and the representatives from various agencies appointed by the Chief District Officer (CDO). The DCWB submits an annual report relating to child rights and development. It has the same mandate as CCWBs at local level, including facilitation and monitoring of Child Care Homes and issuance of directives to correct irregularities. In practice, DCWB carries out the following:

- ❖ Production of annual reports on children and programs/ services for children in the district,
- ❖ Promotion of child rights, in particular through public awareness events,
- ❖ Monitoring of Child Care Homes,
- ❖ Establishment of District Child Emergency Funds and local resource mobilization to respond to cases of children at risk,
- ❖ Rescue and provision of emergency response for child protection cases reported to them,
- ❖ Establishment of coordination and referral mechanisms (DCPC and VCPC/ MCPC),
- ❖ Registration of and orientation to Child Clubs (MOWCSW, September 2015).

### **Manav Seva Sansthan (MSS), Gorakhpur**

*The following data is based on the interaction with the staff of MSS, with a focus on their Campaign against Trafficking in Person (TIP).*

The MSS has been one of the anti-trafficking organizations for a long time. Although it claims to have been involved in

developmental and other work like sustainable agriculture, climate change, HIV/AIDS, climate change, disaster management, care of elderly over the past few years, its work has gravitated to the anti-trafficking intervention with special emphasis on cross-border child trafficking across the Indo-Nepal border.

MSS claims to be active on the classical 3 – P model (Prevention, Protection and Prosecution), covering 21 districts from U.P., Uttarakhand and Bihar states. It has undertaken GIS mapping of the various land routes of trafficking, set up Community Surveillance Groups, established 13 Life Guard Centers at border points, Joint Cross- Border Committees, Cross-Border Anti-Trafficking Networks (CBATN) and Cross-Border Regional Forums. It runs services like two Short Stay Homes, one each in U.P. and Bihar. It formerly provisioned for a toll free anti- trafficking helpline number and formed Community Based Organizations. It also had an operational Legal Resource Centre as well.

MSS Anti-Trafficking action components include capacity building of police and border army personnel, community level prevention models, Cross-Border transit model to rescue trafficked victims, State National and Regional advocacy and networking. MSS in its regular operations has been conducting training programs for SSB personal, Anti-Human Trafficking personnel and senior police officials. Similar workshops are conducted in various districts like Maharajganj, Deoria & Gorakhpur and border point like Sonauli for the senior officials of Police, SSB and personnel of Anti-Human Trafficking Unit and officials engaged in child welfare.

Among its accomplishments, it claims to have provided counseling services to migrants:

Year	No. of migrants counseled	No. of victims repatriated/reintegrated
2006	16542	593
2007	20988	153
2008	23452	921
2009	31290	1290
2010	24850	760

MSS also claims to work in collaboration with several organizations. A cursory look at some anecdotes of Cross-Border interception, given by the representatives of the organization, needed further discussion which wasn't possible due to the lack of time.

The campaign against human trafficking focuses on prevention, protection and prosecution with the objective of tackling the causes and consequences of the Cross-Border trade from neighboring countries. The program components include research, documentation and dissemination, awareness & mobilization, networking & coordination, advocacy & lobbying, augmenting informed mobility, community based programs for high risk groups, rescue & right based repatriation of victims and supporting reunification/rehabilitation.

The campaign has been effective in bringing together cross-border stakeholders, like the law enforcement agencies-Sashatra Seema Bal (SSB), district administration, media, civil societies, judiciary, community and panchayats, to counter the human rights violation. One of the major breakthroughs was the formation of a regional level network – 'Cross-Border Anti-Trafficking Network (CBATN)' to address the Cross-Border issues that influence the anti-human trafficking program in South Asia.

### Gram Niyojan Kendra (GNK), Gaziabad, Uttar Pradesh

GNK is a developmental approach for prevention of trafficking. It was previously solely engaged in conducting social research, mostly on prostitution. Later, it got involved in improving the situation of the girls and women in the sex trade. GNK focused on prevention as the best intervention.

The GNK field project started in 1994 in Roopwas and few other villages in Bharatpur district of Rajasthan, where the Bedia, Nat and Kanjar communities, notorious for the widespread tradition of institutionalized prostitution, lived. The intervention aimed at improving the literacy and educational standard of the people with special emphasis on girls and women; creating awareness on different dimensions of the issue; promoting livelihood opportunities; and mainstreaming the communities. Subsequently, in 1997 the action was extended to cover Nautanwa (District: Maharajganj, U.P.) and Naugaon (District: Uttarkashi, Uttarakhand).

GNK claims to be working in almost 100 villages in the states of U.P., Rajasthan and Uttarakhand. It reaches out to approximately 13,000 families and 85,000 persons.

State	District	Villages	No. of Beneficiaries-Direct/Indirect
Rajasthan	Roopwas, Bharatpur	40	3300 families/18260 Population
Uttar Pradesh	Nautanwa, Maharajganj	23	7500 families/50000 population
Uttarakhand	Naugaon, Uttarkashi	20	1000 families/5690 population

Nautanwa, a village in GNK's project area, falls on the Indo-Nepal border. The gates at the border attract a large number of trucks

and other vehicles. This fuels the demand for girls and women for prostitution. Village Sanauli has a prominent red light district.

The action project of GNK focuses on developmental activities with family-centric community based approach. It also covers health, education and livelihood components. The social development component covers education, awareness generation, health, counseling, group formation, sports and creative activity, linkage and networking. The economic development covers vocational training (farm and off farm activities), training in entrepreneurship development, assistance in marketing and resource mobilization, SHGs, co-operatives, food preservation and management of natural resources.

The GNK, in 2013, conducted a study on Missing Children on the Indo-Nepal border, covering Bahraich, Balrampur, Lakimpur Kheri, Maharajganj, Pilibhit, Shrawasti and Siddharthanagar. Some of the major findings are:

- ❖ Areas bordering India and Nepal are most prone to trafficking
- ❖ Majority (77%) of the trafficked children are girls
- ❖ Total of 2185 children are missing from 14 border districts
- ❖ Total of 1474 children were trafficked and 1263 were missing
- ❖ Champaran was at the top (897) in the number of missing children, while Madhubani with 627 topped the list of trafficked children. Baharaich was found to be the hub of trafficking in U.P.
- ❖ Majority of the children belonged to the age group of 10-15. People did not know whom to approach in case of their missing children.

## Developmental Association for Human Advancement (DEHAT), Sewakunj

The case given below indicates the incidence of trafficking in the opposite direction i.e. from India to Nepal. This is a single case of trafficking from India to Nepal that the research team came across. The research team could not personally visit DEHAT. The case presented below is reproduced as shared by the founder of DEHAT.

### Case of J

J, a 40 year old rickshaw puller, from Lucknow (U.P.) lived in the Bahraich district of U.P. He had four sons and a wife. One day, three of his sons along with two village boys were reported missing. The search operation of ten weeks yielded no positive results. After that he approached the leader of DEHAT, whose organization also runs the local CHILDLINE. He found that the children were bonded to a man named Afzal, who lived in Baharaich. He trained J to go as undercover labour to the workplace where his children were suspected to be in bondage. After some unsuccessful efforts, J managed to get work on the same kiln. One day, Afzal took J to Rupaidiha, a town located at Indo-Nepal border of Bahraich-U.P. (75 km from J's village) and then crossed the border and moved to Nepalganj (a bordering town of Nepal). Then, he handed J to another person named S, who moved him to Kathmandu.

The children were made to work in a brick making factory from 3 am to 5 pm, with no rest and were given food only twice a day. The food was always the same, Tahiri (a rice dish) which was uncooked most of the times. The torture did not stop even after the work. They were made to get water from the nearby mountain. Each child was made to carry 40 liters of

water. If the children ever complained that they were sick or too tired, they faced verbal abuse, threats and physical beatings with sticks and even bricks. One child had lost part of hearing on account of being hit by a brick. There were no rest days given. Most of them have visible markings of the beatings they received. J made heroic effort to run away from the factory but in vain. DEHAT subsequently involved the police and rescued the children. The children reported that one of the villagers, Mr. Bholu, had lured the boys and taken them away from home and got them into the bondage.

Interestingly, after the rescue the police and the organization faced stiff opposition from the Nepal Congress Party, the Brick Factory Owners' Association and the Maoist Party of Nepal who only wanted to protect the factory owner. They stormed the police station and threatened the representatives of DEHAT. The protestors arrogantly claimed that thousand more children were working in the brick factories all over Nepal and the police and the administration would not be able to do anything about it.

## **Data Collected in Nepal**

The data collection and the visits to the NGOs in Nepal were facilitated by Caritas Nepal. Between 18th and 21st July, 2016, the researchers had interaction with a few organizations involved in anti-trafficking work in Nepal.

### **Caritas Nepal**

*The research team interacted with representatives of CARITAS who made the following observations.*

- ❖ Work related migration is growing among the Nepalese and so has the vulnerability to trafficking.

- ❖ People migrate out as there is no sustainable source of livelihood in Nepal.
- ❖ Since the Gurkha earthquake of 2015 there has been 15% increase in outmigration.
- ❖ People migrate to any place where there is a hope of “decent” income.
- ❖ In their own project areas, they have seen youth, women, men migrate to Gulf countries mainly Qatar, UAE, Lebanon, Malaysia, Cambodia and African countries.
- ❖ As Nepal and Lebanon have no agreement to send and receive labour, the Nepalese make Indian passport and visa to go to Lebanon and when caught they get deported with no country willing to take responsibility for them.
- ❖ Nepalese spend anything between 10,000 to 15,000 Nepalese rupees on an agent to get their passport done and they pay another few thousands to get a job in these countries. “Manpower agents”, called locally, are the ones who set everything up to facilitate the process. Those who go to the European countries go on a tourist visa and work there till they get caught and are deported.
- ❖ The work the migrant/ trafficked persons do is locally labeled 3D, meaning Dirty, Dangerous and Difficult.
- ❖ Most of the migrants and trafficked persons are involved in household work, baby care, care of animals and construction (masonry, electrification and painting). Women rarely speak about their engagement in the sex trade, till they are tested HIV positive.
- ❖ Many families approach the Village Development Committee with a request to increase the age of their children so as to expedite sending them out since in Nepal one gets citizenship only after one turns 16 years

of age and one gets an independent passport only after completing 18 years of age.

- ❖ There is a high rate of ‘school dropout’ and ‘runaway children’ as adult care takers are moving out of the house in search of livelihood, leaving children behind with old grandparents. In some cases, the women move out in search of jobs leaving their children with alcoholic, non-earning husbands and/or disabled grandparents.
- ❖ Quality of education in Nepal is deplorable which is adding to the high rate of drop out. It also results in the youth resorting to unskilled jobs in informal sector which in turn adds to their vulnerability to exploitation.

### **Social Environment Development Association (SEDA), Nepal**

*The research team interacted with SEDA staff who made the following observations.*

Nepal is divided into three divisions - the Mountain, the Hill and the Terai. The Mountain area is the most difficult to human access whereas the Hill region is moderate for human habitation. Hills are fairly populated in Nepal. The Terai region is however economically advanced, agriculturally fertile and socially developed. Most of the trafficking and migration in the past was from the Mountain and the Hill region. Lately it is also noticed from the Terai region. Trafficking from the Mountain and Hill regions is still considered to be relatively easy by the traffickers as the people of this region are far away from any exposure and therefore have remained docile and gullible. Most of those who are trafficked belong to the Tamang, Gurung, Magar and Sherpa communities. Women girls and boys from the mountainous districts of Makwanpur,

Nuwakot, Sindhupalchowk and Kavrepalanchok are known to be highly susceptible to trafficking.

Nepali girls and young women cross the borders with just a purse and a shopping bag in their hand so that if intercepted at the I-N border they can convincingly say that they have come for shopping. Almost 65% of the population from Dailekh, Jajarkot, Kalokot goes to India to work on installing electric poles, rail lines, roads construction, orchards maintenance, and as security guards. They work mainly in Shimla, Lucknow and in parts of Bihar and Jharkhand states of India.

Many boys between 12 and 18 migrate for job and get trapped by the traffickers and end up in exploitative labour situations. In these districts the agent is called “Meth”. The labour seeking agencies in India also engage a Meth to source people from Nepal for his work. He does not give any advance money. He sources people from these districts, collects them in a group in a hotel in Nepalganj where someone from the hotel gives them Indian currency for the initial expenses on having reached India. On their return to Nepal they have to repay this amount with interest. Children are also kept in hotels before being moved to India so that nobody will suspect them. Children are mainly employed as farm labour, in hotels and eateries and as head loaders. There have been cases where those working on electric work have died on work but have received no compensation whatsoever as they were undocumented. The Nepali authorities do not entertain any complaint stating that the person had not gone with the permission of the Nepali government. These children are hired by sub contractors who follow neither safety norms nor any labour laws.

The movement to India in search of work or moving with job recruitment agents is high in the month of Shravan (the Nepalese calendar) and they return to Nepal to work on farm

in the month of Aashad (a month before Shravan). This migration is seasonal.

In Dailekh district where SEDA works about 4 years ago an agent took a young woman and placed her as a domestic help in a house in Mumbai. Here her employer sexually abused her. She somehow managed to get in touch with some other Nepalese and managed to get help from them to get out of the house and return to Nepal. Back home she filed a case of cheating against her agent. The agent pleaded innocence saying he only helped this lady to get a job and has not in any way exploited her. With the help from SEDA she has opened a grocery store cum tea shop in her village. She was detected HIV positive.

There have been at least 40 known cases of HIV from places like Dailekh, Jajarkot, Kalikot, of Nepal and all of them had been to India at some point in time. The western districts of Nepal are high on men and boys moving to India. Most farming work here is done by women.

### **Shakti Samuha, Nepal**

Shakti Samuha is the first organization in Nepal to be established and run by the women ex-victims of sex trafficking. In 1996, over 450 girls and women were rescued from the sex trade in Indian brothels during a police mass raid. Among these, 128 were Nepalese girls and women. The Nepalese government was reluctant to bring the women back to Nepal, claiming they would bring HIV into the country with them. In the absence of Government support, several NGOs took the lead in getting them back to Nepal and rehabilitating them. Sadly, even in these rehabilitation centers, the women's treatment did not help to restore their self-esteem and basic human rights. It was only after months had passed and the women were given

training in their rights, that they realized they were not to be blamed for having been trafficked. The women felt it was time to claim their rights so they set up Shakti Samuha.

Shakti Samuha began in 1996 and was registered in the Kathmandu district in 2000. Since 1996 Shakti Samuha has been organizing and empowering the returnee trafficking survivors by providing shelter, legal aid, vocational training and counseling.

The research team interacted with Shakti Samuha team who made following observations:

Nepal has 75 districts out of which 26 districts are sources of human trafficking. In the past most of the trafficking took place from the hilly areas of the north but now even the southern Terai region has become a supply zone for trafficking. Cities like Mumbai, Delhi, Kolkata, Bengaluru and Goa are becoming destination hot spots. In Goa the Nepalese girls and women are taken to work in dance bars. Many girls and young women are first lured from the villages and brought to Kathmandu to work in the dance bars and cabin restaurants in Kathmandu. Later they meet agents who take them to Goa and other parts of India for a few days to weeks to work in the dance bars on assignment bases.

In the past many person facilitated by agents went for offshore jobs through India but having many cases of trafficking exposed the agents have moved their base to Sri Lanka. This is because any Nepali who wants to move from India to any other foreign country for work has to get a No Objection Certificate from the Nepali embassy in India. The Nepali embassy in India has become vigilant and tries to identify cases of high potency to trafficking.

In some cases of international job assignments the agents pay for everything such as the making of the passport, Visa and

for the air ticket. He also gives one month's salary advance to the girls/women. However, after that they toil for two years and hardly get any wages. Girls and young women are still trafficked for the sex trade in India although the number has reduced considerably. Sex trafficking, now a days, is more to the countries like Africa, Gulf, China, Korea, and Lebanon. Since the earthquake the demand for bricks for reconstruction has increased and so have the number of kilns and they get "skilled" young boys to work on Kilns in Nepal.

Not all families lodge complaint if they don't hear from their young members who have left the house. It is commonplace observation that the family is involved in letting their young members go out for work in the name of betterment. Not all families file missing complaints in the police when the member is reported missing. Many cases of fake marriages are being noticed where women are taken to Korea, Japan and China. Young Nepali women are also being taken for surrogacy to China. The Nepalese men and women are trafficked to or migrate to Korea as farm labour. Often the rescued person wants to migrate again.

Although a lot of work is being done to rescue the trafficked persons and repatriate them, more work is needed in offering economically viable livelihoods opportunities to them. Effective prosecution continues to be a challenge. The repatriation protocol prepared collectively with the support from Terre des Homes Switzerland needs to be implemented.

### **Alliance Against Trafficking in Women and Children in Nepal (AATWIN)**

Established in 1997, Alliance against Trafficking in Women & Children in Nepal (AATWIN) has been working to raise the

strong and collective voice against human trafficking. From the very beginning it has been working for policy change at local, national and international levels. It has put in great efforts for creating conceptual clarity among the member organizations and general public. AATWIN started with a membership of 15 organizations and at present it has 33 member organizations from different parts of the country. The Research team met with the Program Coordinator of AATWIN. She reported that post earthquake boys from lower socio-economic strata of families are moving in an unsafe manner to India. She also said a number of boys have gone missing from the Bara District.

She also shared a case of 6 teenage boys belonging to Makwanpur District (about 4 hours distance from Kathmandu) who were trafficked and sold to a meat processing unit in Aligarh in India. Out of the 6 teenage boys (all below 18 years of age) one died. As this incidence got reported in the media the entire trafficking case got unearthed. The remaining 5 boys were brought back to Nepal in the month of May 2016. Both Nepali and Indian agents were involved in the trafficking of these boys. These boys were taken from Birganj to Raxual and from there by a train to Delhi and from Delhi to Aligarh. They worked for about 6 months in the meat processing unit but did not get any salary.

She said that in AATWIN's experience Makwanpur, Nuwakot, Sindhupalchowk districts of Nepal are high on trafficking. Most of the hill districts are the source areas for trafficking and migration. Girls from Tamag community are in demand because of their fair skin. She shared that many Nepalese don't consider India as a foreign country. Today agents are offering to Nepalese children and youth jobs in the Gulf Countries and Africa (Nigeria, Sudan, Cyprus).

Of late, most of the international trafficking of Nepalese persons is happening via Sri Lanka. When the women were asked if they knew anything about the country they were going to all that the women replied was, “We are going to a country of light”. She also reiterated that there were cases of young boys migrating to Indian cities. She further shared the growing trend of women being trafficked for Surrogacy. She said there has been a recent ban on this by the Supreme Court of Nepal. She expressed concern over the absence of any standard procedure followed in case of a trafficked person repatriated to Nepal as every organization has its own procedure. Ideally she said all cases should be registered at the office of the Chief District Officer.

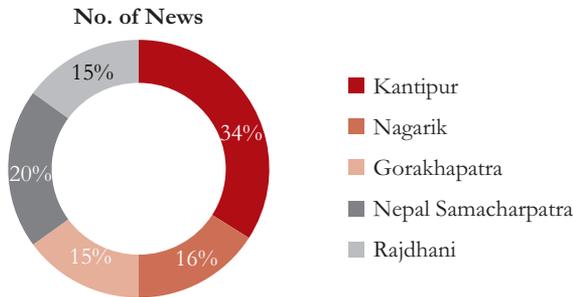
### **Media Coverage**

An analysis of trafficking situation as covered by the media was undertaken by AATWIN (Alliance Against Trafficking in Women and Children in Nepal). It is presented by AATWIN in graphs as follows:

### **Trafficking in Media**

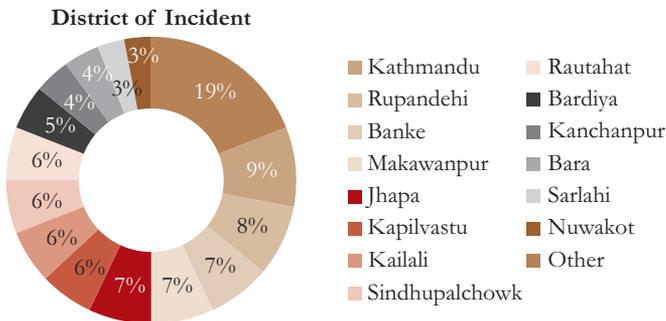
#### ***Number of News Published***

A total of 256 news reports and articles were published in the five selected broadsheet papers being published from Kathmandu. All of the newspapers published news on human trafficking but the coverage varied. According to the chart below, during the given period of time, Kantipur Daily published the most of number news (34%). Nepal Samacharpatra published 20% of the news while Nagarik Daily published 16% of the news. Rajdhani Daily and Gorakhpatra Daily published equal number of news (15%) during the given period of time.



***District of Incident***

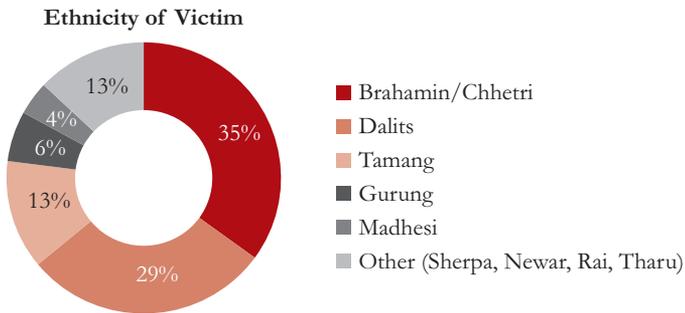
District was not mentioned in all of the news reports and articles. District of incident was mentioned only in 179 news reports and articles. According to the analysis, incidents of 37 districts have been reported. The news on trafficking were reported from Kathmandu (9%), Rupandehi (8%), Banke (7%), Makawanpur (7%), Jhapa (7%), Kapilvastu, Kailali, Sindhupalchowk, and Rautahat (6% each), Bardiya and Kanchanpur (5% each), Bara (4%), Sarlahi and Nuwakot (3% each). Other districts like Dang, Kaski, etc make 18% of the news in total.



***Ethnicity of Victim***

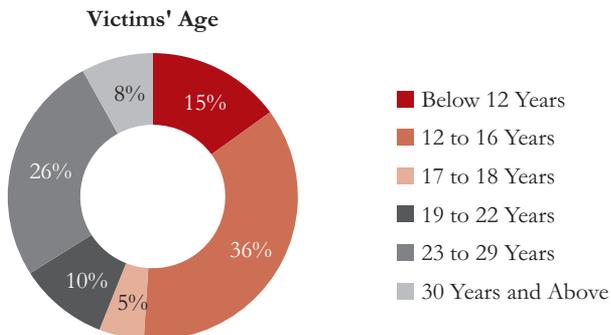
The ethnicity of victim of trafficking could be determined only in 117 news reports and articles. Most of the victims

(35%) belonged to Brahmin or Chhetri community while 29% of the victims belonged to Dalit community. Tamang victims constitute 13% and Gurung and Madhesi victim of trafficking constitute 6% and 4% respectively. Rest 13% were found to be Sherpa, Newar, Rai, and Tharu.



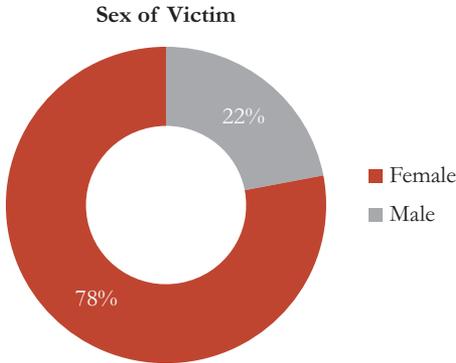
### *Victims' Age*

Victims' age could not be determined in all 256 cases. It could be determined only in 140 news reports and articles. Upon analysis of the news, it was found that more than half of the victims (56%) were children (combining 15% below 12, 36% below 16 and 5% below 18). Rest of the victims were between the age group of 19 to 22 (10%), 23 to 29 (26%) and above 30 (8%).



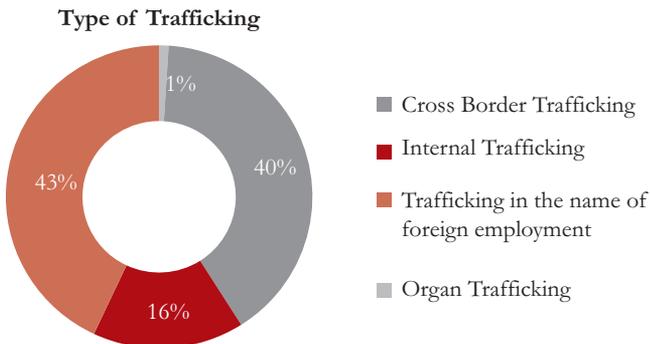
### *Sex*

Sex of the victims of trafficking could be determined only in 180 news reports and articles. Most victims were female (78%) while less than a quarter (22%) of the victims were male.



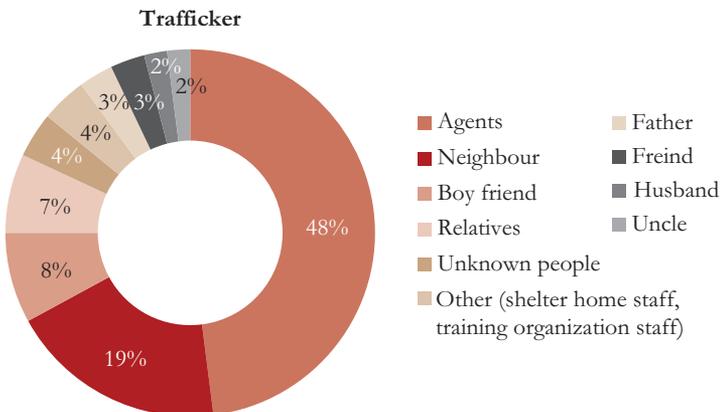
### *Types of Trafficking*

Type of trafficking was also looked upon while analyzing the data from the news reports and articles. We could distinguish the type of trafficking only in 102 news reports and articles. Among them, most of the news (43%) were on trafficking in the name of foreign employment while a significant number of news (40%) were on Cross-Border trafficking. News on internal trafficking was also found to have reported. It constituted 16% of the news while rest 1% of the news was on organ trafficking.



## *Trafficker*

A total of 102 news reports and articles also reported about the trafficker. Analyzing the data, we found that about half of the traffickers (49%) were agents, 18% were neighbours, 8% were boyfriends, and 7% were relatives. From the news reports and articles, unknown people (4%), shelter home and training organization staff (4%), father (3%), friend (3%), husband (2%), and uncle (2%) were found to have been the trafficker.



## **Child Protection Centre Services (CPCS), Nepal**

Child Protection Centre Services (CPCS) was founded in 2002 to answer the needs of the children on the streets of Nepal. Every year, hundreds of children attracted by the glamour of the “big city”, leave their villages. Once there, they discover the harsh realities of life on the streets and are left on their own to face multiple forms of dangers and abuse (moral, sexual and physical).

CPCS was created to support these children and youth and to prevent more children from ending up on the streets. The organization's work can be divided into 3 steps:

- ❖ Prevention (prior to and during the life on the street): Set of interventions focused in two ways; prevent and, if possible, avoid the arrival of the child on the street; and create awareness among general public, the families and the children themselves on the realities of life in the street (its causes, its daily routines and its consequences).
- ❖ Risk reduction (during life in the street): short term perspective focusing on immediate reduction of the dangers of living on the streets.
- ❖ Social rehabilitation (after life in the street): long term perspective focusing on progressive and eventual reintegration of the child into society (de-institutionalization).

CPCS International and its local partners currently run 4 regional centers (Sindhuli – CRPC, Dolakha – CPRC, Morang – ORCHID, and Kathmandu – CPCS). The research team interacted with the field staff of CPCS who made the following observations.

Many young boys who migrate often come to Kathmandu and from here they get lured by the agents who take them to India. They enter India through the Utter Pradesh and Uttarakhand I-N borders. Since most of them never lodge a formal complaint with law enforcement it becomes difficult to make a case of trafficking. Those who migrate to India, have not become rich. They barely subsist. Even if they get trained in the factories there are no employment opportunities in the factories that train them. In Nepal as a result of recurrent

blockades, strikes, landslides people are not confident to start businesses.

Due to lack of economic opportunities in the country they migrate and then get exploited on foreign lands because their negotiation power on foreign land is very less and since they don't understand the local language and have no support system.

Though Nepal does not have the Juvenile Justice system unlike India, the government has now become serious about checking on the manner in which shelter facilities for children are run. Norms for running the shelters have been set and inspection ensures that the service provider NGOs follow them. Bardiya, Koilalai, Kanchanpur, Banke, Nawalparasi, Chitwan are the districts from where young boys run away from their homes or migrate and end up on the streets of the cities.

## **Data Collected in Mumbai**

Data collection in Mumbai was carried out between March 2016 and June 2016.

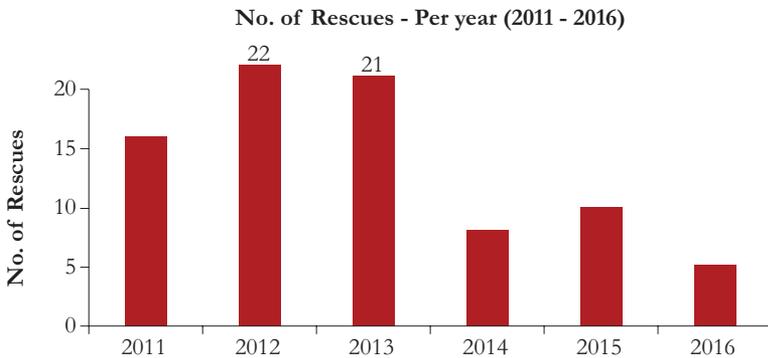
Rescue Foundation (RF) is a non-profit voluntary organization working for rescue, rehabilitation and repatriation of victims for sex trafficking from different parts of India, Nepal & Bangladesh and sold for forced prostitution. RF is involved in multifarious activities for rescuing, rehabilitating, reintegrating and repatriating the trafficked women and girls rescued from commercial sexual exploitation/sex trade. The RF runs 2 Protective Homes (for rescued minor and adult victims), one located in Mumbai and the other based in Boisor, approximately 85 km from Mumbai, in the neighbouring

Thane District in the Indian state of Maharashtra. After rescue the victims are provided with health care, legal aid, psychosocial counseling and vocational training. Subsequently depending on the orders of the court they are restored and repatriated as well.

One of the staff shared that in her experience Nepali women and girls are subjected to sex trafficking in Nepal, India, the Middle East, East Asia, and sub-Saharan Africa. Nepali men, women, and children are also subjected to labour trafficking and forced labour in Nepal, India, the Middle East, Asia, and the United States in construction, factories, mines, domestic work, begging and adult entertainment industry. In many cases, this forced labor is channeled through the manpower recruitment/ placement agencies who are engaged in fraudulent recruitment. They also charge high fees by offering attractive jobs.

#### Rescues per year: RESCUE FOUNDATION

Number of rescues made by Rescue Foundation from 2011 to 2016. Data collected for 2016 is limited from January to March. One can see numbers reducing considerably from 2013 to 2016.



*Data shared by RF for the Rescued Nepali persons who had received shelter in the Protective Home run by the RF (2011-2016 March).*

## Case Study of ST

ST aged 17 years who was rescued in June 2015 belonged to the Tamag community from Sidhupalchowk district. ST was born to a poor Buddhist family in Nepal and was brought up in a joint family. Her father the only earning member in the family was a construction worker. Her mother was a home maker. After the devastating earthquake in Nepal her family shifted to Lalitpur as it had lost everything and the local wage opportunities had suffered drastically.

As the family was passing through an acute financial crisis, her mother sent her to Pokhara a neighbouring town and a tourist place in Nepal as domestic help. Being the eldest one, she had to accept that responsibility towards her family. This was before the fateful earthquake. The work in Pokhara was demanding and hard but the returns were limited.

After working in Pokhara for some time she met a girl named PY who told her about the glamorous job opportunities in Mumbai and made her believe that she could earn a huge amount in a very short time.

As the home situation was bad there was no way she could have gone back home so she accepted the offer and agreed to go to Mumbai along with PY. They soon met a man (whom she used to address as Uncle). PY and the uncle brought her to Bhiwandi and there ST was sold into the sex trade. ST tried to resist but was physically abused and kept in confinement. She was sexually and physically abused for a long period.

On 2nd June 2015, Rescue Foundation along with Bhiwandi city police raided brothels in Hanuman Tekdi and ST was rescued along with 13 other girls. Following the Court orders she was

transferred to Rescue Foundation' shelter Home in Boisar on 3rd June 2015. At Boisar she received vocational training, started attending literacy classes and computer classes.

### Case of G

G was 16 years old when she was rescued on 21st Sept 2012. She was born and brought up in District Jhapa. She has 3 brothers and 1 sister. G was born in a very poor family and her father is a beggar. She used to work as a waitress in a hotel in Nepal near the Indo Nepal border. During this period G met one boy SP whom she found very attractive. He also promised to marry her. When G inquired about his work he informed her that he was working in Army in Shimla, a tourist hill station in India. Placing trust in him she eloped with SP.

SP took her to one woman SN's (his so called sister's) home who lived with her husband in Delhi. After living with her for a few days SP told G that he had to go back to resume his duty and also since he had to make some arrangements for her at his place.

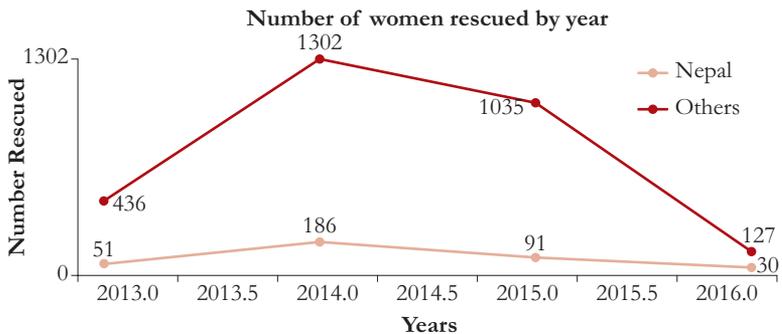
SN repeatedly remarked about her physical appearance in a disapproving manner and told her that G wasn't good to be her sister in law and should take some medicines. SN then offered G some medicine consuming which for a few days G realized that she had started looking plumper.

After some days when G inquired about SP and why he had till then not returned SN told her that SP had sold G to her for a very high price and G had to conform to her instructions and expectations. It was at that point G realized the gravity of the matter and the fact that SP had cheated her and sold her away.

After some days SN took her to the Budhwarpath red-light area of Pune where SN operated as a brothel manager. She made G entertain the customers for some time and then transferred her to the GB Road red-light area in New Delhi. She was kept there for seven months after which she was transferred to the Kabari bazar red light area in Meerut UP. All the while G was made to entertain more than 20 clients in a day.

#### Rescues per year: Navjeevan

Number of rescues made by Navjeevan from 2013 to 2016. Data collected for 2016 is limited to January, February, and March. One can see numbers reducing considerably from 2014 to 2016.



### Mumbai's Protective Home

*The data mentioned below are from the Protective Home set up under the Immoral Traffic (Prevention) Act, 1956.*

A Protective Home is a residential institution constituted under the ITP Act for rehabilitation of adult women rescued from the sex trade. The following observations are of the protective Home in Mumbai. Between January, 2013 to March, 2016 there were 12 rescued Nepali adult women who were given shelter at the protective home. In 2013 two women, in 2014 five women,

in 2015 three women and till end of March 2016 just one woman was admitted to the Protective Home. Except for the women in January 2016 all the other women were handed over.

### **The Case of AT**

The researcher met AT in the government protective home, Navjeevan located in Mumbai. AT claimed she was 31 years old and is from Nepal. She was rescued from a brothel at Pila House in Falkland Road red-light area in January 2016.

AT said she had come to Mumbai about 5 years ago and worked as a domestic help in a house in Thane. The money she earned wasn't enough. A friend offered her another "job" stating that it would fetch her far more income. Hence she agreed to leave her work as a domestic maid and moved to the next. She then found herself in the brothel of 'Pila House'. When asked about the money she had made in all these years she did not respond. She was concerned about her 7 year old son who was with her brother. She said her son lives with her brother JM in Virar where he goes to a school. Probing further revealed that she was unaware of any details like name of the school/hostel or the person who he is living with. She has also been unsuccessful in contacting her brother. AT then shared that JM wasn't her blood brother.

Although Anju wanted to meet her son she insisted that the social worker should not bring her son to the protective home to meet her. She did not want her son to know that she was in the sex trade and was "caught" by the police. She gave the social worker a phone number where she could reach him. With a lot of difficulty the social worker managed to get through to JM and when she insisted on meeting him the address he gave led

the social worker to yet another red-light area located in Sonapur in Bhandup a suburb in Mumbai. JM was not there when the Social worker reached the venue he said he would meet her. The social worker tried to reach him and when he answered the call, he informed the social worker that he was in Surat a city in the neighbouring state of Gujarat to buy some clothes and would be back to Mumbai in a day or two. He then promptly hung up.

In the meanwhile, the court issued an Order for AT's repatriation to Nepal. AT was reluctant to go back as she said there was nothing left for her in Nepal and she was sure to return to India to locate her son. She would not give details of her place of origin nor anything about her trafficker.

### **Interview with a Representative of Pratham**

In the Southern part of Mumbai in a sprawling slum, a series of raids were carried out by a multidisciplinary team on some sweatshops where several trafficked children were kept in captivity and made to work in harsh slavery like condition. Pratham, an NGO, was one active organization in that team. Pratham's representative, who had actively witnessed the intervention observed - Several Nepali and Indian children are subjected to forced labor in the country, especially in the embroidered textile, or *zari*, industry. Children are also trafficked and kept in servitude in agriculture, brick kilns, stone-breaking industry and in domestic work.

### **Child Labour in Mumbai: Bihar-Nepal-Maharashtra Connection**

Pratham was started in Mumbai in 1994 with the vision and mission of "Every Child in School and Learning Well". In

the early years, Pratham's area of work was Mumbai; now it is spread across India. Over time it stretched its work to also cover the issue of child exploitation in the labour sector.

### **Pratham's Study of Child Labour in Mumbai has Made the Following Observations**

- ❖ Mostly children came from Bihar (which it was later found had a substantial proportion of Nepalese children brought through Bihar)
- ❖ Some of them were as young as 7 years
- ❖ They worked in the Jari and Leather sectors in Mumbai slums
- ❖ They worked for 13 to 15 hours daily and were paid anything between Rs. 500/- and Rs. 4000/- p.m.
- ❖ Their working conditions fit the description of slavery with little scope for escaping.

Pratham and the other coordinating agencies including the state agencies like the labour department and the police did a very impressive work in raiding the sweatshops and rescuing the children. The problem was studied in details. What initially appeared as the phenomenon of children trafficked from Bihar revealed that there was a significant proportion of children who in the first instance had been trafficked into Bihar from the remote and backward districts of Nepal. Pratham's data distinctly brought out the role played by Indo Nepal child trafficking and the role played by the Indo Nepal border in Bihar in the districts of East Champaran and Sitamarhi.

### **Statistics by Pratham**

- ❖ From Jan 2015 to Feb 2016 ninety six (96) children Nepalese rescued in Mumbai alone. Their average age

was 13.20 yrs. They were found working in bag making factories.

- ❖ In a period from June 2014 to July 2015 in all 60 Nepalese children were rescued from bag making factories in Mumbai whose average age was 13.05 years.
- ❖ Significant child trafficking took place from Rautahat in Nepal to the Raxaul station in India which is very close to the Nepal border.

Several problems are still being faced in repatriating the Nepalese children rescued in Mumbai. The Mumbai CWC was well aware of the issue and gave appropriate orders for the temporary care, investigation and repatriation of the Nepalese children.

Pratham visited Gaur the district headquarter of Rautahat (Nepal) in June 2015 and had rounds of discussions with several state and non-state actors who mentioned that they were aware of the large scale trafficking of Nepalese children to places like Mumbai for labour. They were active on prevention and on repatriation and rehabilitation. The Nepalese agencies complained that the information given to them with regard to the Nepalese Mumbai and such other parts of India is very scanty and it becomes difficult to trace the children's families with that much information. However they are successful in tracing the families once the child is physically given into their custody. The other difficulty was the overall devastation as a result of the earthquake of April 2015 that has added to the push factor from Nepal end. They also mentioned that the long and open border between India and Nepal make it very tough to prevent Cross-Border trafficking. However both, the state and the non state actors, expressed eagerness to cooperate to solve the problem.

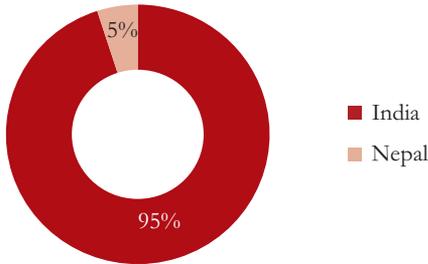
## Data from the State Run Children’s Home Dongri, Mumbai and Pratham

The statistics maintained by the State run Homes at Dongri Mumbai indicates the following:

Number of children in the State run Children’s Home at Dongri. Out of 2022 children rescued, 98 were from Nepal, 1924 were from India.



Dongri Home Data



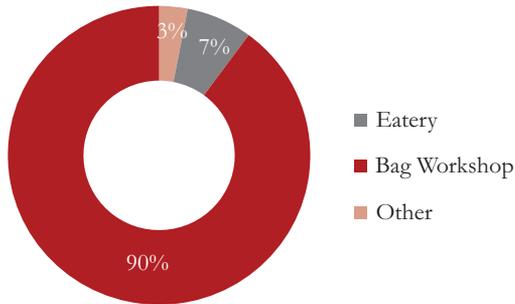
Mumbai’s protective home data-the graph belows the minimum, maximum and average ages of rescued children. The data is collected from the Dongri Children’s Home.



In the administrative year 2015-2016 totally 2866 children were placed of which 2280 were boys and 586 were girls. Out of which 98 children were Nepalese whose average age was around 13.7. Most of them were working in bag making factories.

**Distribution of Professions:**

Pratham Council for Vulnerable Children Data collected from 2014-2016



It is important to study the data bases maintained at different metropolises and such other destinations and identify the patterns.

The statistics maintained by these two agencies (Dongri Home and Pratham) may be overlapping. The numbers at the State run Homes for children in need of care and protection is bound to have children rescued by NGOs other than Pratham.

Such analyses help us understand the age group, source, destination activity based on which the plan of action can be evolved. In the last decade internationally many production activities and products have been exposed as tainted by exposing how they are built upon exploitation in their supply chains. The information gathered from Mumbai and Bengaluru points at the tainted bag making factories and provides substantial ground for taking action against them.

### International Justice Mission, Mumbai

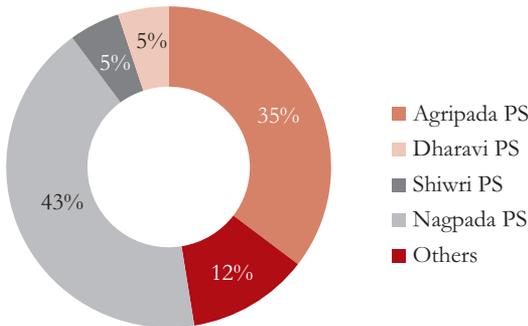
IJM shared that 184 victims of trafficking were provided post rescue services by IJM in the year 2012-13 out of which 6 were from Nepal (from Nawalparasi and Rupandehi):

Year	Rescued Aftercare Beneficiaries
2011	41
2012	32 (including 5 Nepali girls)
2013	35 (including 1 Nepali girl)
2014	40
2015	36

These numbers only reflect the victims whom IJM has taken as aftercare beneficiaries post rescue and not the total number of victims rescued.

#### Location of Rescue:

Pratham Council for Vulnerable Children Data collected from 2014-2016



### Padma - Case of Labour Trafficking

*The case of suspected labour trafficking of a Nepali minor girl Padma daughter of Nalini intercepted by IJM, Mumbai.*

On 24th January 2012, IJM got a tip off from a local informant in Turbhe area about a minor Nepalese girl who was about to be trafficked abroad. The informant had come across a sex worker Nalini (name changed) who was prostituting in Turbhe area since past four years had learned that her daughter

Padma (name changed) who was in Kalyan would be taken to Delhi on the same night and then sent to Saudi for domestic work. Nalini had a strong feeling that her daughter would be trafficked and forced into prostitution in Saudi. The mother provided the cell number of the person from which Padma had contacted Nalini on 21st January to say that she was going abroad. Nalini requested her daughter not to go to middle east but Padma insisted saying that she wanted to earn and support her younger sisters.

IJM decided to intervene in the case and sent a team to Kalyan, the team spread in the market areas and railway station to see if any Nepali girl accompanied with a lady or a man was travelling out of station. After a while the IJM team spotted a young girl that fitted the description of Padma who was moving along with a Nepali lady in her mid- twenties in the market area.

IJM social worker (knowing Nepali language) called from a public phone booth on the number that was provided by Nalini and spoke in Nepali to a man saying that she was from Nepal and had come along with a lady to Kalyan. The lady had given her the number and somehow she got separated from the lady. Social worker said that she did not know anyone and could not understand Hindi. She said that she did not have any money and did not know where to go. The person on the other end asked her to wait at the same place and he would come to pick her up. After few minutes another IJM team member called her other colleague who was leading the rescue and shared that she had located a young girl along with a Nepali lady marketing in the VIP luggage shop. The IJM team reached the shop and spotted that girl. They started following the girl who came to Rambaug. On the way they

visited a medical shop. At Rambaug the girl and the Nepali lady entered AH building opposite to the medical shop. The team kept continuous surveillance on the building. The IJM team member again gave a call on the same number from a public phone booth close to AH building and said that she has been walking up and down and has borrowed money to make the call. She said that she was worried as it was night and did not know where to go. A lady picked up the phone and gave another number and when the IJM social worker contacted the person he asked her to wait there stating that he would reach there to fetch her.

The IJM team was asked to move away and the surveillance team was asked to keep a watch as to who comes to the phone booth. The surveillance team at AH bldg said that two men walked down and they have come to the phone booth and are inquiring about a woman called SH. It was understood that the girl along with the Nepali lady was Padma and the investigations was on the right track. The IJM member leading this rescue went to Mahatma Phule police station, gave the information to the Sr. Police Inspector Mr. AP and requested him to conduct rescue. The police immediately acted on the information and a few police constables and women police constables in plain clothes accompanied the IJM team and reached Rambaug. On the way the IJM surveillance team said that Padma and the Nepali lady had come down and were in the said medical shop and the two people who had come to the phone booth were still down. As soon as the police reached the medical shop the police took Padma and the Nepali lady into custody. Both the men on the street were also taken into custody by the police. Police raided the first floor and found another man in the room along with a young girl of age 14 -15 years and two small children and an old Nepali lady.

The police recovered many passports, photocopies of passports, condoms, electricity bills and ration cards. On the way to the police station the police got a tip off about another place where more girls were kept. The police team went to another area and raided that place too. There were around 9 girls and a man in the room. The apartment was on the first floor and had two rooms, a kitchen and a toilet - bathroom. There was strong odour of liquor and cigarettes. The police did not find any money or cell phone from the girls. The girls said that they were always confined in the room and were not allowed to go out. They were waiting for their passports and Visas as they all were promised domestic jobs in Saudi. All the girls were taken to the police station along with the man.

On reaching the police station the girl Padma said that her name was not Padma and it was Sharda (name changed). The police also had found some document from Nepal indicating her name as Sharda. The question was where was Padma? As the police were taking the details of the 9 girls one of the young girls said that her name was Anisha. When she was interviewed before the SPI she said that she did not have parents and her age was 21 years. The police believed her and did not want to believe that she was the girl whose information had been provided to us.

IJM team requested Nalini to come to the police station to identify her daughter. The mother identified her daughter Padma and ever Padma too said that Nalini was her mother. The mother then gave her story that she was married to Bharkat Bahadur and had three daughters from him. The husband was not doing any job and one lady promised her a job and she

came along with her who sold her to the brothel in Turbhe some 4 years back.

In their statements the rescued girls told that their passports were done in Nepal. The agent who made their passport was from the same village. He gave 10,000 Nepali rupees to their family member and told that their girls won't be paid for 3 months as the expenses for passport and the advance money given will be deducted from their salary. Girls won't be able to call their parents frequently as its international call rates and making calls will be expensive.

The AHTU personal took statements of the girls and 5 of the girls were produced before the CWC who did the necessary enquiries. The CWC passed an order that the age verification and the other medical examinations be conducted for all the girls and they be kept at Bhiwandi Children's Home till then.

The police conducted some preliminary investigations with the men that were brought to the police station and found that there was a person by the name of Taufeeque who sent the girls to Saudi and his firm was registered and he had a licence. The case has been transferred to Anti- trafficking unit Thane City who will be conducting the further investigations to ascertain whether this is a case of international human trafficking.

### **Best Practices**

**The IJM Model** - Individual Casework Model to Rehabilitate and Restore Victims of Commercial Sexual Exploitation (CSE).

Victims of trafficking for CSE need special care and attention in terms of their rescue, rehabilitation, reintegration into society

and long term restoration. International Justice Mission, in Mumbai has been working since 2000 in seven licensed shelter homes in Mumbai to support rehabilitation, reintegration and restoration of minors. It uses case management approach in its work with victims. Within the first 24 hours of rescue, IJM follows the Minimum Standards of Care Protocols (ITPA, Sec. 15, 5-A) in partnership with the police and shelter homes. IJM accompanies victims to their initial medical examinations and productions before the required authorities.

### Key Activities

- ❖ Ensuring Minimum Standards of Care Protocol: IJM Mumbai states that it ensures a rescued victim within 48 to 72 hours of being rescued receives crisis counseling, medical check-up, undergoes age verification and is separated from the perpetrator.
- ❖ Facilitating a thorough Home Inquiry Report: IJM supports the CWC and ITPA court by facilitating a thorough Home Inquiry Report.
- ❖ Documentation: IJM social workers ensure that the following documentation needs are met, for every victim.
- ❖ Trauma Symptom Checklists (TSC-40 and TSCC-54): IJM counselors use a 40 or 54-point checklist created by Psychologists John Briere, Ph.D and Marsha Runtz, Ph.D.
- ❖ Needs Assessment: The Needs Assessment is conducted by the social worker for each of her cases which forms the basis for creating a comprehensive treatment plan.

- ❖ **Treatment Plan:** The Treatment Plan focuses on the personal and professional, short and long term goals of the victims.
- ❖ **Aftercare Successful Outcomes (ASO):** The ASO is an audit tool which is used to track the restoration process. Every case can have a rating from 0 to 4, rating 0 as a place of extreme vulnerability to a 4 being a place of stability and sustainability.
- ❖ **Program support at Shelter Homes:** to ensure qualitative therapeutic support, educational and training options to rescued survivors in shelter homes in Mumbai, IJM provides counselling, tuition teachers, materials, NIOS exam fees, English speaking classes etc., computer classes and other vocational training options.
- ❖ **Follow up:** The IJM team conducts follow-ups in each case, for a minimum period of 2 years. This can extend up to 5 or 7 years based on the need of the victim.
- ❖ **Partnerships:** In order to sustain the survivor in her home of origin, IJM partners with local NGOs to provide need based inputs like food, shelter, medical help, housing, support for children and training options.

**Impact:** Since 2000, IJM has partnered with police, prosecution and social services to rescue 560 victims of CSE and achieve convictions of 87 offenders. In addition, through Individual Casework Model, IJM Mumbai claims to have achieved restoration of 66% of rescued victims and 80% of them continue to sustain themselves, a year after reintegration.

## Prerana, Mumbai

Prerana, a civil society organization from Mumbai, started working in the midst of the then Asia's biggest Red Light Area (RLA) Kamathipura and its satellite red-light area Falkland in Mumbai in the year 1986. These areas were reported to have over 65,000 prostituted women between the two decades of 1960 and 1980. Prerana started its intervention right in the midst of the RLA a hub of all kinds of criminal activities. The intervention practically started on 24x7 bases and continues to be so till date. Prerana started a Night Care Centre (NCC) which provided care and protection to the children of the RLA based prostituted women during the most difficult and dangerous time zone in their lives the night. After some initial hesitation borne out of distrust soon the prostituted women started patronizing the NCC. As the women witnessed the benefits in terms of the protection, nutrition, overall care, health, recreation, education of sending their children to the NCC the number of children and the waiting list seeking admission in the NCC grew steadily.

Prerana under its another flagship program Education Support Program (ESP) then ensured that every child of the RLA based prostituted woman went to school and received formal education without stigma and discrimination. Sensing the persistent danger for children living in the RLA lurking round the corner for the opportunity to strike Prerana proposed to the mothers the long term placement of their children in state and non state run shelters for residential care, protection and development without having to lose their right over and access to their children. Since this idea was also devised based upon regular consultations with the mothers and the children

it clicked. Every attempt was made to ensure that while the child was delinked from the influences of the RLA it was not delinked from the mother and that the mother-child link was encouraged and actively nurtured.

As HIV/AIDS had caused serious problems in the lives of the prostituted women and their children Prerana started India's first Children Affected with AIDS program with support from USAID.

Prerana started activities for the mothers primarily to ensure their civic and human rights in terms of fight against violence, stigma and discrimination in public life, ensuring access to public services like hospitals, markets, police station, public transport, securing a ration card, opening a bank account, getting their children admitted in formal schools etc. This opened up an important wing of Prerana namely Advocacy.

The Kamathipura and Falkland Rd RLAs had in its one distinct part a cluster of brothels exclusively of Nepalese girls and women. They were run by Nepalese brothel keepers and pimps. These brothels were secluded and distinct in terms of their isolation from the rest, their better infrastructure (porcelain tiles on the walls and tiled floor, coloured lamps and glasses, etc.), higher sense of captivity, restrictions on the movement of the prostituted women and girls therein, as also their higher rates and the presence of old Nepalese women as help and handywomen for upkeepment of the brothels and for the household chore. Spotting a Nepalese prostituted woman wandering around in the RLA was a rarest of the rare sights. This isolation and secrecy also ensured that they skipped the attention and misled the attempts at their enumeration by outside planners, scholars and reporters.

Prerana penetrated all parts of the above two Mumbai RLAs and had children attending its activities. It barred the pimps and brothel keepers or the fancymen (the regulars or half husband-half pimps) of the prostituted women from coming to the centre or accompanying the children to the centre. Between 1986 and 1996 it had an average of 20% Nepalese children taking benefits of its various services. The number of Nepalese prostituted women in the above two RLAs started dwindling very fast specifically after 1996. The above mentioned exclusiveness of the Nepalese brothels also disappeared.

### **Distribution of Children as per their Origin in Prerana's Night Care Centre (2004-2008)**

There were two distinct trends. The modern fight against trafficking and commercial sexual exploitation initiated and led largely by the professional social workers, its strategic interventions, and its collaboration with the police had led to recurrent police crack-down on the sex trade and its traffickers all resulted in a drastic overall reduction in the number of sex slaves in the above two RLAs. Secondly, by then the sex trade had started operating and growing outside the conventional RLAs and had dispersed all over. Thirdly, the proportion of trafficked victims from the traditional source like Nepal and the Indian Devadasi belts (the traditional religious customary trafficking like Karnataka, Andhra Pradesh) had started declining as a result of various factors.

The fact of decline in the number of trafficked Nepalese girls to Mumbai's RLAs is also corroborated by other sources of information including the reports by NHRC Nepal. Somewhere

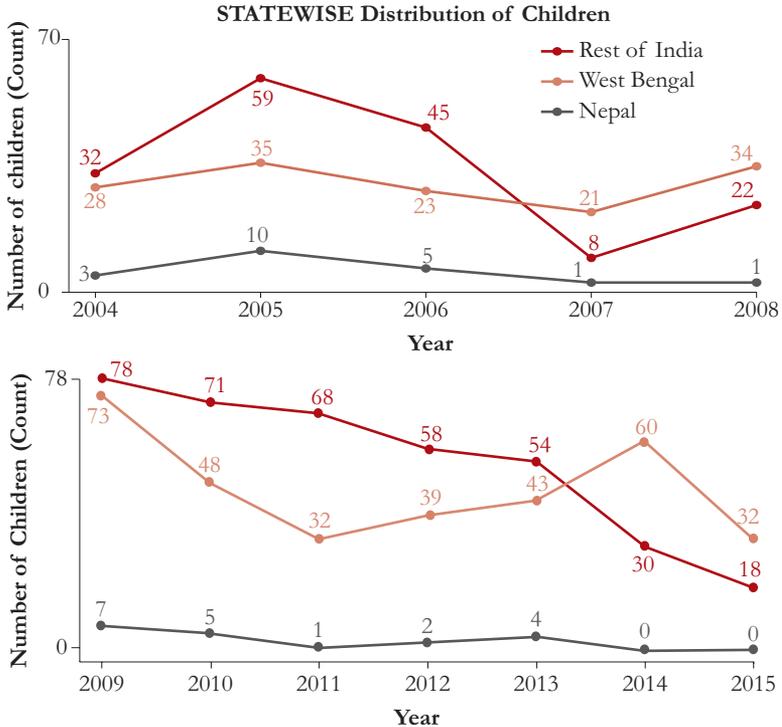
around 1990s in one part of Mumbai a suburb called Bhandup a new RLA Sonapur emerged which was mostly run by the eunuchs and had a large percentage of Nepalese women.

Around 1990 Prerana had also started working in a newly emerged RLA in the twin city of Mumbai, Navi Mumbai in an area called the Vashi-Turbhe area. The police crack-down, the increased civil society vigilance had partly also resulted in the diversion of the Nepalese supply to the neighbouring city Surat in the State of Gujarat which was famous for its flourishing diamond trade. Prerana's experience showed that the Vashi Turbhe RLA and the Surat RLA were closely linked and had a significant switch of prostituted women between them. Even if all these factors are taken into account the fact remained that the overall supply of Nepalese girls and women to the sex trade of Mumbai and around declined considerably after 2000.

### **Case of Nalini**

Nalini was 15 years when she was rescued by the Social Service branch of Mumbai police and was placed in the State run shelter at Deonar Mumbai. As Prerana had been appointed to partly supervise the overall functioning of that Home as per a court order (in the Criminal Writ Petition No. 1332 of 1999 the Mumbai High Court granted petitioner Prerana's prayer and directed the State of Maharashtra to set up a Guidance & Monitoring Committee (GMC) to supervise the overall functioning of the State run Home for the rehabilitation of the rescued juvenile girls). The GMC resulted into dramatic improvements in the Home and the incidence of non-cooperation, running away re-trafficking of rescued girls, handing them over to claimants of dubious

**Number of children registered per year:** Prerana NCC Number of children registered at Prerana's Night Care Centers from 2004 to 2015. Terracotta – Combined States of India (except West Bengal), Light Brown – West Bengal, Black - Nepal



identity (mostly sex traders) and the wastage of investment in them all came down. Prerana honed in several other civil society organizations as service providers. In the Deonar Home Nalini received high quality professional psycho social counseling, legal assistance as well as professionally designed and delivered recreation. Subsequently, she was transferred to Pratihtha (Prerana's residential vocational training centre for traffi victim girls). Under a project an eminent college giving graduate and post graduate degree training in hospitality and

catering technology gave 5 month long training in hospitality and catering to the rescued minor girls. In another training program run in collaboration with UN-IOM rescued girls were given 5 month long residential training in upmarket fashion designing. In the pre placement counselling Nalini chose the training in fashion designing.

Nalini completed the training with interest and diligence. She was placed with a nearby boutique for internship. The training activity of Prerana was documented by IOM as the best practice and Nalini was invited to make a presentation in a Conference organized by IOM- India in Hyderabad. Nalini gained considerable confidence and started a boutique on her own. Subsequently, she recruited some more similarly trained girls from Prerana as workers in her own shop.

Nalini did not want to go back to Nepal to her family although she was agreeable to keeping in touch with them.

Nalini as an adult Nepali citizen had the right to work and earn in India which she exercised.

### **Successful Repatriation to Nepal**

Shakti Samuha Nepal is the first collective of Nepali victims trafficked for the sex trade. The Shakti Samuha was supported by Terre Des Hommes Lausanne, Switzerland. Having gone through the entire experience of repatriation of rescued Nepalese victims, Prerana and SS learnt many good lessons. Although little immigration procedures were mandatory, in this case the handling required a lot of professionalism, tact, patience and persistence.

As usual with a view to share the lessons learnt from this exercise, Prerana documented the process and its lessons learnt in a document titled *'Home Coming'*. Under the initiative of Terre Des Hommes, Lausanne a Standard Operating Procedure (SOP) on repatriation of Nepali victims of sex trafficking to India was evolved. From 1986 up to date in its career Prerana came across several cases of boys trafficked for the organized sex trade. Out of the 14 lanes of Kamathipura RLA the first lane was notorious for the sex trade involving male victims. The lane was ruled by eunuchs. But Prerana did not come across any Nepali boys in those brothels.

During its networking and collaborations with organizations like Pratham in Mumbai Prerana did come across Nepali boy children trafficked for labour sector exploitation. More about it is mentioned elsewhere in this Report in the section sharing the observations of Pratham. Prerana's intervention model Elimination of Second Generation Trafficking (ESGT) is an effective intervention to end intergenerational trafficking for sex trade. The model also effectively ended labour sector trafficking of children. It is rights based and developmental in nature and is universally replicable.

Some of the most salient and experience based lessons learnt by Prerana on the repatriation of Nepalese girls and children rescued in India are summarized below:

Effective self-reintegration, social reintegration and vocational training leading to viable economic rehabilitation of Nepalese rescued minor girls and young women is quite possible if handled with seriousness and professionalism.

The serious involvement of the anti-trafficking civil society organization / victim collective from Nepal Shakti Samuha was a very important factor that guaranteed a matching performance and eventually led to success.

The damage is not only irreversible but fatal too and hence the primacy of preventive work in Nepal must get top priority attention especially as compared to rescue and long term or quasi permanent stay of the rescued girls into the shelters.

## **Other Observations**

### **The Land Border and the Immigration Procedures**

The long standing political tension between India and China, the recurrent complaints of violation of the Indo-China border by the Chinese army especially along the border of the Indian state of Arunachal Pradesh, the alleged role of China in supplying arms to the left radical outfits like the Naxals in parts of India, the fear of poaching of wildlife fueled by the demand in the Chinese markets, the fear of drug trafficking all have resulted in the strict vigilance and little Cross-Border movement of persons along the Indo China border. It is quite surprising that as against that the Indo Nepal land border has been kept wide open for the movement of persons and goods which has a great potentiality of nullifying the utility of the strict vigilance across the Indo China border. Besides the two decade long political agitation led by the Maoist groups and the formation of the Maoist dominated government in Nepal of late there has been recurrent tension between India and Nepal along the border. The rising fear of terrorism and the repeated announcements by the terror

groups of targeting India have been the latest causes of worry for India. Under such circumstances it is only obvious that India would consider sealing all its land borders, introduce strict immigration policies and procedures. Sealing of the otherwise porous land borders has already started along the Indo Bangladesh border after the agreement in May 2015 over the disputed enclaves.

Every stakeholder directly or indirectly admits that the vast open land border between India and Nepal is a major factor facilitating Cross-Border human trafficking from Nepal to India and to some extent from India to Nepal. They all are also supposedly aware of the fact that a sealed and closely monitored border, introduction of immigration procedures, VISA/Work Permits etc. need not come in the way of a very liberal but legal migration of the citizens of the two countries between the two countries. This anomaly seeks proper explanation. In spite of that not a single stakeholder suggested sealing of the Indo Nepal land border and monitoring of the movement of persons across the border.

### **Low Priority to Prevention**

The policies and programs of the Nepal government and Nepalese AHT-CSOs lay heavy emphasis on rescue and rehabilitation. The Indian AHT-CSOs like Rescue Foundation (Mumbai based) and IJM have been focusing on rescue operations (sex trafficking). They have been pursuing the prosecution of those cases very vigorously. The Mumbai based organization Pratham has been engaged in rescue of child victims of labour trafficking. It has been also working on the prosecution of the offenders of child

labour trafficking and exploitation. The Nepalese AHT-CSOs are seen associating with Rescue Foundation and other government and non-government run Protective Homes for the repatriation of the rescued victims particularly the girl victims of sex trafficking. Shakti Samuha a victim collective of Nepal has also been working for the repatriation of the victims of sex trafficking rescued in India. The AHT-CSOs of Nepal and some of the Indian AHT-COS working against the Indo Nepal Cross-Border trafficking are also on record to have taken up regular training and sensitization of the police and other border security personnel. The Nepalese AHT-CSOs seem to be doing a lot of Cross-Border anti trafficking interception for rescuing the persons suspected to be the victims. There is no match between the number of rescues and the number of prosecution let alone conviction. The AHT-CSOs are also engaged in creating awareness among the persons crossing the borders and the figures are very big. The utility of such awareness creation at the border points needs to be empirically studied. Nonetheless theoretically it can still be considered as a preventive activity.

But other than conducting mass activities of creating awareness comparatively speaking there is very little importance received by the most important area of intervention, namely prevention. Prevention remains grossly underrepresented on the agenda list of the Nepalese AHT-CSOs and the Govt of Nepal. Prevention has also been limited largely to creating awareness without any scientific measurement to assess its impact and outcome.

Every non-dynamic and reluctant government of a labour surplus country prefers the out migration of its job seeking

citizens in order to offload the domestic burden. The Govt of Nepal has an aggressive program of sending its skilled and unskilled citizens to a number of countries abroad as human resource. The remittances from such export have been admittedly (NHRC Nepal 2013-15, CWIN Report) very meagre. Nonetheless, the trafficking prevention activities have received little attention of the state and the AHT-CSOs. The shelter based victim assistance services appear to be the most popular activity among many of the AHT-CSOs operating against Cross-Border trafficking.

## 4

# RECOMMENDATIONS

### **Prevention is the Best Intervention**

The damage caused to a victim of human trafficking is multi-fold and grave. In the case of sex trafficking, the impact is both physiological and psychological. Most of the damage is irreversible. With the advent of HIV/AIDS, the damage has also become fatal. The victims of labour sector trafficking often become victims of sexual exploitation. In the case of children, who are poorly equipped to protect themselves, the impact of the violence is serious. Although, the post rescue victim assistance services of certain kind have become very popular among the AHT-CSOs, it is the need of the hour to focus on prevention. Community based preventive mechanisms, which will bring down the need for running shelters, should be initiated and strengthened. Prevention programs should go beyond merely creating awareness. Strengthening families and communities need to be focused. Development policies that lead to distressed migration should be addressed.

### **Non-Institutionalized Services**

The option of shelter based victim assistance services is very expensive. It is capital and energy intensive. It appears quite

impossible that it can meet the rising demand for such services. There have been increasing complaints from the civil society sector service providers about the corruption in and hostile and punitive treatment by the government agencies. Some of the Asian countries are currently plagued with a veiled form of physical and sexual exploitation of children living in shelters by visitors. This is commonly termed ‘the Orphanage Tourism’. While post rescue victim assistance services and shelters for rescued children are important, it is time that more and more non institutionalization based services should be innovated and streamlined.

### **Protection**

While prevention is a generalized intervention, protection is more specific. It presumes some knowledge about the identity of the vulnerable persons who are pre-disposed and hence most probable victims. Protection makes special intervention to prevent the precipitation of their victimization. In protection, the persons covered and the measures taken are specific and the impact of the intervention can be measured and ascertained relatively accurately. For instance, protecting the children of RLA based prostituted women; protecting the pre-pubescent girls from the communities affected by customary prostitution legitimized by religious or non-religious social customs; protecting children from a certain known supply zone; etc.

### **Escalating Preventive Vigilance**

Vigilance at railway stations and bus stands may be escalated. Although in Cross-Border interception it is quite a challenge

to prove the offence of trafficking, there is still some hope and scope to block child trafficking by introducing and enforcing certain legitimate precautions.

For instance, an unescorted child can be taken into custody by the competent authority as 'Found but Untraced child' and restored to the parents/legal guardians of the child or to any other competent authorities. Of course, there is no doubt that with the strong push and pull factors; complicity of parents; and complete openness of the border, the waves of the trafficked and migrant persons will keep hitting the Indian shores.

### **Building Immunity**

Vulnerable children should be identified, outreached and trained to suspect foul game, raise an alarm, seek external help and memorize the contacts of help, while on the move.

### **Raids and Rescue**

Constant raids and rescue operations make trafficking non-viable. Hence, as a strategy it is definitely recommended to provide a tracking system so as to check re-trafficking.

### **Creating Awareness**

Awareness campaigns may be carried out targeting the vulnerable populations as well as the positive stakeholders from the supply areas in Nepal and the bordering districts of India & Nepal. It is required to bring awareness about the fact that trafficking is happening on a big scale and unlike what was believed previously, boys are also getting trafficked for the exploitative labour sector.

## Awareness Building

Awareness should be built about migration, illegal migration, trafficking, smuggling and also the special protections available. One should also be aware about the following:

- ❖ *Immunity Building* - Scrutinize the facts and detect the trap.
- ❖ *Safety information* - How to assess the danger from time to time.
- ❖ *Safe migration* - Understanding what is safe migration.
- ❖ *Knowing One's rights* - one's rights as human beings and as victims.

## Facilitating Conceptual Clarity

Conceptual clarity should be given importance in the awareness campaigns and the training programs, meant for the positive stakeholders and media representatives, to clarify the concepts like migration, eviction, uprootment, expulsion, illegal migration, coerced migration, distressed migration and trafficking and the difference among them. Currently, there appears considerable confusion and lack of clarity among the stakeholders. It affects their problem perception and diagnosis which in turn denies and/or undermines the much needed action to correct some of the problems related with human trafficking. The current state of affairs is resulting into normalization and trivialization of trafficking and neglect and abandonment of children by their primary or customary care takers.

It is recommended that, on the lines of the Violence Against Women which is between 25th November and 10th December, an intensive campaign may be initiated that will expose the

seriousness of intentional or unintentional misinterpretation of trafficking as harmless migration for labour. The campaign should focus on making such misinterpretations unacceptable. It should also oppose the attempts at normalizing and trivializing trafficking. Considering the history of the region, especially India where such campaigns have had significant impact on social perception, the chances are high that such normalization and trivialization will stop, thereby compelling the state and the civil society to take serious cognition of the situation and intensify action against it.

### **Adopting the Right Analytical Framework**

When certain phenomenon take place on a small scale, it is easy to categorize them as crime. It is also appropriate and effective to expect the enforcement agency personnel (police) to handle it. When the phenomenon occurs on a large scale, then the police cannot be expected to play the prime role in addressing the problem. It does not help to view it as a mere law and order problem. It is a social structural problem, requiring significant social (including economic) transformation. Such issues need to be brought on the centre stage of social movements.

### **Reinterpreting 'Run Away' Children**

The abandonment of children results in their expulsion but the phenomenon is wrongly presented as 'run away children', thereby projecting a child as the sole independent and voluntary actor of 'moving out' of the house. Such wrong presentations trivialize the culpable commissions and omissions on the part of the society, by wrongly focusing on the children as the prime actors.

## **Protecting Children from the Primary Duty Bearers**

It is observed that known and trusted individuals are engaged in the trafficking of children. This also means that we have a situation where children have to be protected against abandonment, neglect and trafficking by their own parents, caretakers and duty bearers. As against the commonly presented ‘Stranger - Danger’ link, emphasis should be given on understanding the dangers hidden in one’s own immediate, familiar and social environment. It is recommended that a few highly vulnerable (supply) villages be selected for a pilot project for protecting the children from their ‘own’ family, caregivers, guardians and decision- making adults.

## **Family as the Preventive Force**

Further exploration is necessary to understand as to why do children agree to go with the agents when appealed to help their own families in financial crisis. This commitment to ‘protect the family’ does not tally well with many other observations.

## **Building-Rebuilding the Community Sentiment**

Human history is witness to the fact that crises can also bring individuals and families into building stronger neighbourhoods, strengthen community ties and protect their members from external dangers. Although a disaster may look like the precipitating factor, there are some pre-disposing factors that make different societies react differently to a disaster. In case of a disaster, some communities will make special effort to extend a protective cover for the children in the neighbourhood, while in some other communities large scale trafficking of children may take place. It is recommended that community structures

and processes that protect children may be created or re-created. There is a need to revive the pre-existing child protection customs, structures and cultures. If they did not exist in the past, then they may be newly introduced and institutionalized.

### **Victim Assistance Services**

Service is a right. Those who have become victims to trafficking deserve a priority attention of the state and civil society, aimed at correcting the wrong and restoring the situation of freedom and normalcy. While human trafficking is an outright violation of some of the most important rights of a human being and the AHT intervention is primarily to correct the wrong and restore the person's rights, the measures like mere advocacy and pressurizing the State and the civil society for the same are not sufficient. It does not sufficiently uphold the rights of the individual. Rights are legitimate claims and whether the state and the civil society uphold those claims or not, the fulfillment of those claims cannot be neglected or postponed. The CSOs play a crucial role here.

This is an important justification for providing a host of victim assistance services. A broad spectrum of professionally designed, delivered and monitored victim assistance services is a primary requirement in the AHT intervention and it must be strengthened. Currently, the service sector is seriously suffering from lack of accountability. Providing Victim Assistance Services (VAS) on a sustainable basis is a herculean task which demands huge material and non-material resources. They also demand serious commitments on the part of the service providers. It also demands high level of professionalism and quality. This may be one reason why the quality of victim

assistance services, prevalent in South Asia in general, remains dismal. They by and large do not adhere to the minimum standard protocols. All over South Asia, the institutionalization based (shelter based) delivery of services has come under criticism, disapproval and serious allegations for being the store house of grave deprivation and violence.

A state is a major provider of victim assistance services. The state is also the monitoring agency for the functioning of the non-state entities, delivering VAS. However, due to rampant corruption both these tasks continue to suffer seriously. In the absence of transparency, accountability, third party monitoring or self-regulation, it is difficult to claim that the re-trafficking of the rescued victims is an exception and not a rule.

The shelter based VAS demand heavy capital investments besides a substantial component of recurring running costs. A careful examination of the past experiences and observations points to a strong possibility that the traffickers are making a mockery of the state and the civil society interventions, through rampant and routine re-trafficking of rescued victims. Alternatively, the victims may be living a life characterized by continued vulnerability, deprivation and discrimination. In such situations, the only conclusion is that the VAS sector has failed and the only inevitable recommendation is that the VAS sector must succeed.

### **The Post Rescue Sector Needs the Following Qualities**

- ❖ Transparency
- ❖ Accountability
- ❖ Monitoring

- ❖ Professionalism
- ❖ Minimum Standards
- ❖ Collective Self-Regulation
- ❖ Victim Tracking Systems
- ❖ Identification of Leakages and intensive systems for Plugging them
- ❖ Full-proof system to ensure that the rescued victims bounce back better

## **Keeping Children on the Path of Development**

### **Right to Education may be Promulgated for**

- ❖ Ensuring that children of certain vulnerable age continue to be in schools
- ❖ Reducing their vulnerability
- ❖ Improving their resilience
- ❖ Empowering them legally, politically and economically

### **Immediate Post Rescue Services**

The intercepted children should get immediate trauma- centric counseling, besides other inputs like place of safety, nutrition, clothing, health services and protection.

### **Effective Juvenile Justice System**

Intensive child protection and welfare services in and around Gorakhpur (the closest destination city) and in metropolises like Bengaluru and Mumbai (the remotest destination cities); interventions in the labour sector and workplaces; and enforcement of child labour related laws may be initiated and

strengthened. The Juvenile Justice Systems and mechanisms should be made effective.

### **Postponing the Exit from ‘Around 13 Years’ to ‘After 18 Years’**

This is based upon a premise that a ‘Law and Order’ or more appropriately a Crime and Punishment framework works only when crime takes place as an exception and not as rule. When a certain crime becomes rampant in a society, several social sectors get involved and the economies develop interest in them (e.g. the supply chain based child trafficking in chocolate, carpet, cosmetics industries). Then, the crime and punishment framework, comprising police, prosecution, and court, fails and becomes increasingly irrelevant in addressing the problem. While one may not completely abandon the crime and punishment model, the latter simply cannot be the main or prime approach in addressing the issue. Such a situation demands more basic social and economic reforms.

Creating long term interest with regard to children in the families and thereby, delaying the abandonment of the children by a few years may facilitate prevention of trafficking and consequent exploitation, without blocking physical mobility. This is particularly required as some of the macro-level economic transformations are beyond the control of the civil society organizations and weaker political entities and migration for work remains a predominant approach to counter local economic stagnation. Human resource development for the vulnerable children may be undertaken. If the age of abandonment can be delayed it will have great returns.

## Human Resource (HR) Up-gradation

Migration post human resource up-gradation could be safer, sustained and more rewarding as compared to being trafficked as unskilled labour for informal wage sector. As a long term measure, the extensive and comprehensive developmental efforts must be intensified in order to improve the overall economic situation and enhance the local/domestic wage opportunities, which will stem the exodus of the workforce. The age of 13 years appears to be the watershed year that conclusively precipitates trafficking.

The outmigration and trafficking of children belonging to a certain age group (especially 12 to 13 years) must be stopped effectively. There are two approaches to this. One, asking for a legislation and policy on the lines of the 2009 Right to Education Act of India, which makes it compulsory that every child in the age group of 12 to 13 must be in formal schooling. Children's Right to (Free and Compulsory) Education Act, 2009 (i.e. the RTE Act), makes it compulsory that every child between the age 6 and 14 must be in school. This was found to be far more effective than the Child Labour (Prohibition and Regulation) Act, 1986 of India, in keeping children out of the labour market. Second, the compulsory education should focus on vocational training based upon proper research and study of the labour market. The children should be given sustainable employability skills based upon the study of wage opportunities and skill demands of the labour markets. This way the date of exit/migration can be postponed beyond 18 years and when the person enters the labour market he/she is in a position to command relatively better wages and working conditions.

However, the question – ‘who will financially support the compulsory education of the underprivileged children?’ must be answered. In the Indian situation, the state placed this burden on the private sector schools. This, perhaps, might not work in the case of Nepal. These details can be discussed. The multinational tourism business houses could be considered as the potential sponsors. Postponing the age of exit (whether trafficking or migration) thus can be an important step in the direction of stemming trafficking. This may be done with both the groups i.e. the rescued juveniles and those who are most vulnerable.

### **Employability for the Vulnerable Age Group**

- ❖ Glossary of Decent jobs (Sustainable Development Goal-SDG Goal No. 8)
- ❖ Skilled market surveys
- ❖ Selection of specific employability skills
- ❖ Training in the employable skills
- ❖ Connecting with the labour market & placement
- ❖ Life Skills Education
- ❖ Creation of handy support systems
- ❖ Building resilience against HT
- ❖ Early detection of an attempt at HT

### **Actions to be Taken**

- ❖ Networking
- ❖ Legal empowerment
- ❖ Economic empowerment
- ❖ Backward forward linkages

The Asian economy is fast expanding. Within Nepal itself the tourism sector is growing very fast. The sector seems to have continued to grow in spite of the earthquake of 2015. It has kept its upward trend despite the Maoist uprising and the subsequent political instability of over a decade. Tourism and its allied service sectors are labour intensive and demand a young semi skilled human resource. It is too early to state if the benefits of the growing tourism are being siphoned away by the international non-Nepalese business houses or there is a substantial sharing of the benefits. One way this can be ensured is by constantly influencing the tourism related technology to keep it labour intensive and by placing larger human resource development responsibilities on the tourism industry. The international business houses might resist such additional responsibilities and state monitoring as it happened in the case of the shift of the control from National Mountaineering Association (NMA), a private body to Govt. of Nepal. The NMA has been collecting around 5 Million US\$ annually by way of fees from foreign climbers. It has approached the Supreme Court of Nepal and obtained a stay against the Nepalese government move to take over the control. As against that the manner in which the NMA used its revenue needs to be studied. *(This case is being cited merely as an example and not as a conclusive case)*

### **Food Processing Industry as Income Generation Activity**

Tourism industry based economy has impressive spillover effects which can benefit the Nepalese population, if the private business groups are not allowed to take away the profits, without any counter responsibilities. The hospitality industry is bound to generate demand for local and exotic vegetables and fruits,

both in raw and processed forms. The exceptional gathering of tourists of various nationalities in itself is an exceptional marketing opportunity. The agro- climatic conditions of the Himalayan region would favour production of fruits and vegetables the European tourists are used to growing. The food processing sector has immense potentialities and the gap between the demand and supply is quite large. Thus, efforts at engaging the local groups in the processing of locally grown or imported fruits and vegetables holds a promise of sustained and local wage opportunities.

The food processing industry is highly recommended income generation activity on several grounds. Besides adding value to the farm (cultivated) and forest (gathered) food products, it directly contributes to food preservation. It does not demand very high level of education or skill on the part of the worker. It is scale neutral and can be started on a small household scale too. It can be run on a range of technological options starting from simple locally manageable tool based technology to plant based automated industry. The activity is well tested and full of success stories. As a household activity, it offers considerable flexibility in terms of time commitment to the multi-tasking men and women. While the terrain region of Nepal has several regular agricultural products, the cold undulated terrains in the hilly mountainous areas can be used for growing exotic vegetables and fruits. The huge inflow of international tourists offers a significant market. Food processing industry has been a well-established activity for young women in many parts of the world. Efforts should be made to set up a chain of cooperatives that will look after the production, processing and marketing of the processed food.

## Direct Engagement in the Tourism and Hospitality Sector

Short term training programs in the tourism, hospitality and catering industries may be necessary to gainfully engage the moderately educated youth.

## Human Resource Export

If the local economy fails to or falls short of gainfully absorbing the local youth as skilled human resource, then the option of exporting human resources comes as a major strategy. This is particularly recommended considering the growing trend in global migration. Some of the political regimes which did not encourage the development of industry in their state have still managed to do well by developing and exporting human resource and expecting remittances. Kerala is one closest example of this approach. Allowing the untrained and undeveloped manpower to be taken away by the exploitative and unregulated entities to unknown and unapproved destinations would continue the story of exploitation and trafficking. This will require action on two fronts. One demanding and ensuring that the work conditions at the destinations are decent. (Sustainable Development Goal 2015, Goal No. 8) Second, specific programmatic intervention is required to engage the children and adolescents between the age of 13 and 18 in human resource development and then placing them in decent jobs abroad or within Nepal. This essentially means holding on those vulnerable to trafficking till they acquire well-paying employability skills.

## Tracing the Trafficking Routes

Some AHT groups and researchers have laid emphasis on mapping the trafficking routes. The utility of such exercises is doubtful. The traffickers are smart and active and change their

routes and modus operandi swiftly and strategically in response to the escalated vigilance. It is too naïve to believe that the traffickers will mindlessly stick to their traditional routes.

### **Working Closely with the Ministry of External Affairs**

Nepal has a policy to encourage its citizens to migrate to the world's labour markets for betterment. It is thus necessary to understand the demands in the world labour market. It is also necessary to evolve and mainstream safe migration procedures. Preventing labour sector exploitation and monitoring better working conditions require close work with the Ministry of External Affairs.

### **Working with the Directorates of Employment**

In order to understand the labour market demand (local in Nepal, in neighbouring India as well as the other popular labour migration destinations), area skill surveys, selection of sustainable trades for training, maximum match between skills training activities and market's demands for certain skill, better monitoring of employments abroad, better wages and service conditions are required.

### **Evaluate the Prosecution Outcome**

Although it was not possible to study the details of the prosecution and no one provided authentic details on the same it is extremely difficult to establish the trafficking crime when it is not completed. Speaking in strict legal terms, until the point of completion of the crime, any interception (even by the police) can be interpreted as undue interference in the perfectly lawful activities of innocent citizens and hence harassment. Even if an unrelated adult is found

accompanying or escorting a child to a remote place, even across the border, it does not amount to crime. Even if such person has a criminal background, if he can prove that he/she is taking the child on the specific request of the lawful guardian of the child then, it is difficult to establish the crime involved in the same. Technically speaking this questions the logic of the entire Cross-Border interception run on the 'Crime and Punishment' framework. It is important to study the incidence of filing of the indictments (charge sheet) and the outcome of the prosecution process. A good lawyer will easily get the accused out in a jiffy.

Although it is quite possible to get the possession of such children from the trafficker through Cross-Border vigilance and although that seems to be happening routinely, there does not seem to be any match between the numbers of so called 'rescues' and the number of prosecution and convictions. Speaking of Nepal, where there appears to be a large scale erosion of local lifestyle and sustainability, the Cross-Border AHT interception are less likely to lead to prosecution and convictions. It is also less likely to reduce the vulnerability of the children in the source locations.

### **Restoring the Value of Child**

There was practically no mention of any outside (non Nepali) trafficker. In most cases, the agents were the local 'Uncles' (someone from the same village or neighbourhood) who took the child away from home and dropped them at the exploitative destinations. These 'uncles' seem to be wearing many hats at the same time. This makes one believe that a trafficker is a socially

diffused role and not an external, strange, professionally full time criminal.

This indicates two possibilities. One, it creates a dangerous situation in which the offenders are widespread and diffused in the social environment of the child and enjoy a degree of social acceptance in a variety of social roles. Two, there is little concern about the safety and dignity of children in general and parents do not mind sending their children away to fend for themselves.

For some reason, there does not seem to be much subscription to the belief that the right place of children is in their family, the front-yard and the back-yards of their home, the neighbourhood, the school and the playgrounds. Not many eyebrows are raised with the rising expose of cases of children trafficked into slavery.

The serious erosion of the value of children and the moral responsibility of the adult society to protect their children and value them more than their own lives is a matter of grave concern. The dignity and value of children and the responsibility of the adult society 'to protect and care for them' needs to be urgently re-established.

### **Safe Migration**

Safe migration must be encouraged.

### **Work with the Transport Agencies**

Work with the transport agencies operating along the border may be undertaken, in order to develop a strategic partnership in the AHT interventions.

### **Proper Documentation Including Biometric Records**

Proper documentation, including the biometric records of children living on the railway platforms and on and off the streets, may be undertaken in order to identify the missing children and keep a track of them.

### **Specific Training of the Police**

As per the orders of the Supreme Court of India, specific training of the police on the issue of missing children may be undertaken.

### **Sensitization and Training of the Border Security Forces**

Sensitization and Training of the Border Security Forces and the police may be facilitated with active involvement of the civil society AHT representatives.

### **The Protocols and SOPs**

The protocols and SOPs on Safe Migration, Minimum Standards, Post Rescue Operation and Repatriation evolved by many multi-disciplinary teams may be brought into practice. Currently these tools are being ignored by all.

## CONCLUSION & WAY FORWARD

Caritas India carried out the study - 'A Close Look at Indo-Nepal Cross-Border Child Trafficking' with the primary objective to undertake the phenomenon of human trafficking and the interventions across the Indo-Nepal with a view to evolve directions for future interventions.

The study conducted by Caritas India reveals that trafficking of boys from Nepal to India across the land border at Gorakhpur and other places is at present rampant and growing over the past few years. Both Nepalese girls as well as boys get trafficked across the Indo-Nepal land border from Nepal to India. However, trafficking of boys as compared to that of girls is not at all insignificant. The trafficking of boys appears to be some kind of mass behaviour where the immediate family members and close relatives, in short, faces known to the child and to the family, are engaged in facilitating the trafficking of children. There seem to be easy availability of known neighbours and/or agents who easily convince the parents and traffic their children.

In most cases, the children can better be categorized as 'thrown away children' but are labeled as 'runaway children'. These boys

are mostly trafficked for labour sector exploitation. Many local stakeholders interpret labour related trafficking as work related migration. There needs to be clarity and broader understanding across on labour migration or labour related trafficking.

Interaction with different stakeholders in Gorakhpur, Lucknow and Baharaich revealed that the working conditions of the trafficked children who work in and around Gorakhpur are harsh. This indicates a clear gap in the child welfare and child protection services. Children do not get to keep their wages to themselves and hence continue to remain vulnerable and in the end feel cheated. These affect them mentally, emotionally and physically.

It is surprising to see that the trafficked children do not approach the police, social workers, or any other helping professionals or individuals in order to go back to their family. Rescued and 'rehabilitated' children are not tracked closely for some time to check re-trafficking and wastage of rehabilitation efforts.

Although everyone admitted that the porous nature of the land border between India and Nepal and absence of immigration procedures make it easy for the Nepalese men, women, and children to migrate legally or illegally, get smuggled or get trafficked into India, surprisingly no one suggested the sealing of the Indo Nepal border and introduction of strict verification procedures through official gates and closer scrutiny.

The research suggests that quality up-gradation of services and capacity building of duty bearers and care givers is necessary. The system of proper data management is grossly absent at the level of state and civil society sector. Case management approach is largely missing even at the service providers' level

whether State or CSOs. Shelter based victim assistance services seem to be popular among the civil society organizations but prevention through developmental activities seems to be a highly ignored. Non-institutionalized or non-shelter based victim assistance services and social reintegration interventions are not suggested by any state or non-state stakeholders.

The study has come out with the concrete recommendations which would be useful for further interventions. I am hopeful that the recommendations will support Government, law enforcement officials, civil society organizations and academicians to come out with policies, innovative and practical suggestions to combat Indo-Nepal Cross-Border trafficking in persons.

Some of the suggested recommendations which has come out of the research are: sensitization and training of the border security forces and the police with the active involvement of civil society representatives, the protocols and SOPs on safe migration, minimum standards, post rescue operation and repatriation evolved by many multi- disciplinary teams may be brought into practice, currently these tools are being ignored. The post rescue sector needs the following qualities- transparency, accountability, monitoring, minimum standards, victim tracking systems, identification of leakages and urgent and intensive systems for plugging them and a full proof system to ensure that the rescued victims bounce back better.

Moreover, Human Trafficking has been specifically mentioned in the Sustainable Development Goals (SDG), highlighted in three goals: 5, 8, and 16. This gives hope to the organizations, that addressing this grave human rights violation will become a greater priority for countries and citizens around the world.

As India marches to attain SDGs by 2030, Caritas India and her partners reaffirm their commitment to deliver preventive services to the marginalized groups, migrant population, women and children across the country. In the coming years, Caritas India will adopt the recommendations and will work closely with government and CSOs in Gorakhpur, Lucknow and Baharaich districts of Utter Pradesh and Sonauli, Tutibadi and Rupaiddiha borders of India and Nepal to combat human trafficking.

I wish and hope that the major findings and recommendations of the report will help all of us to get involved in fighting modern day slavery and move forward towards a solution.

**Fr. Paul Moonjely**

Asst. Executive Director

Caritas India

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## **DR. PRAVIN PATKAR**

Dr. Pravin Patkar co-founder of Prerana, is a noted social activist, academician, researcher, and creative writer. He taught at the post graduate level and conducted multi disciplinary research at the Tata Institute of Social Sciences, Mumbai for 20 years and then on visiting basis at Amrita Vishwa Vidyapeetham for 6 years. As the Fulbright Academic & Professional Excellence Fellow 2015-16 he co-taught 4 courses, developed two courses and co-guided student research at the masters level in a university in the USA. His work on labour trafficking dates back to 1977. His work against tribal bondage and environmental destruction rescued and rehabilitated 7000 bonded tribal families and saved the western ghat from reckless tree felling. He took up massive work for reconstruction of the traffic victims and the denuded hills of the coastal districts of Maharashtra. Dr. Patkar founded and managed for 26 years a residential school for 470 children of ex-bonded tribals. He co-founded Prerana in 1986 and worked on the advocacy component against human trafficking for sex trade. He has extensive research and publication in the field of social development, human trafficking and child protection. In 2004 he was nominated by the US Govt for the global position of UN Special Rapporteur on Human Trafficking. He was elected unopposed for the global position Vice-Chairperson ECPAT International. He served as the Expert to India's National Commission for Women and continues to serve as an expert on child protection to SAIEVAC-SAARC. He is currently serving as a consultant to UNICEF. A celebrated creative writer in Marathi Dr. Patkar has, to his credit, three collections of short stories with 7 all India awards for the same.

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## **MS. PRITI PATKAR**

Priti is a social worker and human rights activist who has been working since 28 years to protect children and women in the red-light districts from human trafficking and commercial sexual exploitation. She co-founded Prerana that has done pioneering work in the red-light districts of Mumbai. She is accredited with several path-breaking social interventions in the anti-trafficking domain that includes world's first night care shelter in the midst of a red light area, first network of anti-trafficking organizations in India etc. She has led several advocacy initiatives at national and global level and has to her credit the largest number of legal interventions and writ petitions in India. The Government of India incorporated the programme measures pioneered and standardized by her in the first National Plan of Action 1998 against trafficking of children and women. Her intervention under Children Affected by AIDS programme was adjudged by Washington University as one of World's 7 best interventions of working with AIDS affected persons. In 2014, she received the Vital Voices Global Leadership Award in Human Rights for her life's work.

# CARITAS INDIA

Established in 1962, Caritas India has evolved over her five decades of experience in emergency response and recovery, community development, reconstruction and natural resource management expressing solidarity with the community. Providing sustainable and holistic response through more than 200 member organizations and partners, Caritas India works for the most vulnerable and marginalized sections of the society towards dignified lives and inclusive sustainable development. Caritas India is a member of the larger global Caritas confederation which exists in 165 countries and serves 200 countries and territories and draws her learnings from the good practices of these member organizations.

The operations of Caritas India were initiated through disaster response during the Bangladesh Refugee crisis in 1971, but over five decades of experiences in the field led to diversification and up-scaling of interventions. The present interventions are in the areas of livelihood security, climate change adaptation through natural resource management and sustainable agricultural practices, disaster risk reduction and emergency response, good governance through political participation, anti-human trafficking, peace-building and health care with focus on HIV/AIDS, Malaria, Tuberculosis and other communicable diseases. Caritas India works for the wellbeing of women and children and reaches out with special attention to women in most of our community development intervention for their participation in planning and decision making.

## VISION

Formation of a just and sustaining social order by upholding values of love, equality and peace.

## MISSION

Restoration of human dignity of the poor and marginalized by partnering with intermediary organizations in extending support and facilitation and advocating for the rights of the people.



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