



EXECUTIVE SUMMARY

India*



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Introduction

India is a federal, parliamentary democracy state. With approximately 1.1 billion people, it is home to 19 per cent of the world's children.¹

Recently, India has emerged as the fourth world's largest economy. However, the fast growing economy does not distribute wealth equally to each individual in the country. Though the population below the poverty line has gradually shrunk, still 37 per cent of the population remained below the poverty line in 2010.² Poverty therefore lies within the deepest concern for the population of India. In addition, malnutrition in women and children, lack of birth registration and low levels of education of children are affecting lives of children in India. Child labour is also a significant problem for India, which has the highest number of child workers under 14 years of age.³ Other deep-rooted problems behind this phenomenon include socio-cultural practices of gender discrimination; social tolerance of child labour; and lack of awareness and limited access to quality education. Moreover, apart from child labour, another significant form of child rights violation is commercial sexual exploitation. A recent study has shown that a large percentage of people do not believe that child sexual abuse exists in India, due to traditional and conservative beliefs.⁴ Despite the government's commitment to combat sexual abuse of children, the problem remains big in the society because of inadequacy and non-implementation of the laws, as well as attitudes of the authorities and society. Furthermore, there are other traditional practices that can be regarded as harmful to children, such as child marriage and the religiously related practice of *devadasi*.⁵

Child Prostitution

Child prostitution is widespread in India. UNICEF has estimated that around 1.2 million children are exploited in prostitution in the country.⁶ While Mumbai is known to be the capital of the country's sex industry, children kept in brothels in big cities are believed to face conditions of slavery and torture. Most girls are sent here or to the Middle East for prostitution. In addition, boys are also found in prostitution. Most of them run away from home at young age, often because of broken families, parental abuse or poverty. Other social factors that push boys into prostitution are family pressure and a need to buy drugs. Many brothels provide services from boys and *transgendered* boys. Some of them are masqueraded as masseurs.

Trafficking in Children for Sexual Purposes:

Child trafficking for sexual purposes seems to be a primary form of commercial sexual exploitation in India. Though the country is a source, transit and destination country for trafficking, 90 per cent of human trafficking takes place internally.⁷ Traffickers often persuade young girls with a promise of marriage or a well-paid job but instead they are sent to brothels and forced into prostitution. In 2005, the National Human Rights Commission (NHRC) estimated almost half of the children trafficked within India are as young as 11 years old. The NHRC study reveals that the majority of trafficking victims in India belong to socially deprived sections of society, including scheduled castes and tribes.⁸ In the northeast region, children are trafficked internally from conflict affected rural areas. As for cross-border

trafficking, young girls, as young as seven, are trafficked from Nepal and Bangladesh in major prostitution centres of Mumbai, Calcutta and Delhi. In Mumbai, half of those involved in prostitution are estimated to be from Nepal (of which 90 per cent believed to have entered into prostitution as children).⁹ Some are trafficked to South East Asian countries for sexual and other forms of exploitation.

Child Pornography

Child pornography has only been recognized as one growing problem in India recently. Though Interpol has indicated that there are child pornographic materials originated from India, the issue does not seem to receive much attention by the government.¹⁰ A study of 12 000 children has shown that 4.46 per cent of them have been photographed naked. India, however, lacks a comprehensive law against child pornography.¹¹

Child Sex Tourism

A growing travel industry in India has largely contributed to child sex tourism. This phenomenon is not limited only as a result of foreign tourists coming to the country, but also internal tourists. Child sex tourism in India involves hotels and travel agencies along with some companies which openly promote the availability of children involved in prostitution.¹² Some famous tourist destination such as coastal areas of Goa are reported to have foreign tourists directly approaching children for sex. A study by the NHRC has shown that child sex tourism is also a growing phenomena in Delhi, Uttar Pradesh, Andhra Pradesh and Pondicherry.¹³ As for domestic tourism, a concern has been drawn to religious sites, where children are also vulnerable to sexual exploitation from the visiting pilgrims.

National Plan of Action

The National Charter for Children 2003 is a policy document adopted by the central government to highlight the roles and responsibilities of the state and societies towards children and vice versa. This document also provides protection for vulnerable children, children in conflict with the law and children in need of special care and protection.¹⁴ Later in 2005, **the National Plan of Action for Children** was prepared by the MWCD, with child consultations. The Plan is divided into four sections: child survival, child development, child protection and child participation, and includes strategies to fight child sexual exploitation, trafficking and pornography,

with the implementation at state-level.¹⁵ Additionally, to be more specific to CSEC, the MWCD drew up a **National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children**.¹⁶ A specific plan for children was later adopted in 2005 but failed to reach its goals in 2010; the MWCD is therefore in process of drafting a new plan. Finally, in 2008, the **Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women** was adopted to address all forms of human trafficking and contains community-based initiatives to prevent trafficking.¹⁷

Coordination and Cooperation

At the national level, the Ministry of Women and Child Development is the primary ministry dealing with issues concerning women and children in India. In 2007, the National Commission for Protection of Child Rights (NCPCR) was established with mandates to review compatibility with child rights

protection as well as receiving complaints and examine violations. The Ministry of Home Affairs (MHA) has set up a Nodal Cell (Anti-Trafficking Cell) to address human trafficking cases and coordinates with Police Officers of the State. As for the civil sector, there are several NGO networks working to combat

CSEC. These NGOs pursue a variety of actions regarding awareness raising and training of personnel. Actions have been taken also in religious sector. The National Inter Religious Priest Forum (IRPF) is formed of priests from different religions (Hindu, Muslim, Sikh and Christian) in order to discuss and state their views on human rights abuse.

At the regional level, India is an active member of the South Asia Association for Regional Cooperation (SAARC). It is party to SAARC conventions promoting child welfare, as well as combating trafficking in women and children for prostitution and a Regional Task Force has been set up under this framework. The South Asian Initiative to End violence against Children (SAIEVAC) was also formed to tackle common issues in the region: human trafficking, child marriage, corporal punishment, child labour and sexual abuse and exploitation of children. Under UNIFEM's Regional Anti-Trafficking Initiative in Bangladesh, India, Nepal, Pakistan

and Sri Lanka, the South Asia Forum against Human Trafficking (SAFAHT) was formed to support anti-trafficking activities within the region.¹⁸ However, despite inter-governmental effort in combating CSEC, NGOs also have a significant role in the region, with a focus on local communities. The Cross Border Anti Trafficking Network (CBATN) is a regional coalition of NGOs acting as an agency for coordination and cooperation among countries in South Asia. India also entered into bilateral consultation with neighbouring countries such as Bangladesh to strengthen rescue, recovery, repatriation and reintegration efforts for trafficking victims. Meanwhile, at the international level, the UN Office on Drugs and Crime (UNODC) has been very active in supporting and coordinating government efforts to combat human trafficking, including trafficking in children. With the collaboration of some state governments, UNODC has set up some initiatives such as awareness raising campaigns and caregivers training.

Prevention

The Ministry of Women and Child Development has been implementing **UIJAWALA**, or the Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation since 2007.¹⁹ The scheme sets forth a community-based approach for human trafficking prevention, but insufficient financial resources have been allocated to its implementation.²⁰ Apart from government efforts (which are often criticized as insufficient), many NGOs are undertaking prevention work independently and within government programmes. SANLAAP, an ECPAT affiliate has been focusing on preventing second generation prostitution. JABALA, an active NGO in West Bengal has been working to prevent human trafficking and child marriage. The Anti-Trafficking Network has been set up by district governments, with technical assistance from the UNICEF, supporting community-based activities such as identifying vulnerable children and link them to self-help groups or skills development initiatives. With regard to child prostitution,

a number of activities have been carried out to fight against the practice of *devadasi* including the recovery of girls who were exploited under this practice. To tackle child pornography, there are two active websites dedicated to internet safety by acting as a report centre for cybercrime and to educate parents about safe use of internet for children. A procedure for blocking pornographic websites is also operational.

The Code for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code) has played a significant role in dealing with child sex tourism in India. Under its framework, several workshops were organized in order to sensitize the local tourism industry about how to protect children from sexual exploitation. In 2010, the Ministry of Tourism officially launched its Code of Conduct for Safe and Honourable Tourism aiming to strengthen safe tourism in India.²¹ In 2011, new guidelines for hotels were revised and mandatory reporting section was added as a prerequisite for the approval of all licenses.

India is party to the Convention on the Rights of the Child (CRC) and the Optional Protocol on the Sale of Children, Child prostitution and Child Pornography (OPSC). The government has recently ratified the UN Convention against Transnational Organized Crime and the Trafficking Protocol, as well as the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia. At the national level, the Indian legal system comprises of central legislative and state legislative. Under central legislation, CSEC is governed by a number of *Acts* and the definition of a “child” therefore varies throughout different laws. However, according to the Penal Code, the age of consent to sexual intercourse is 16 years old.

Prostitution of Children:

The Immoral Traffic (Prevention) Act 1956 (ITPA) defines prostitution as the sexual exploitation or abuse of persons for commercial purposes. It penalizes the act of selling, procuring and exploiting of any person for prostitution but does not say that prostitution itself is illegal, though keeping a brothel is. The ITPA does not specify offences relating to child prostitution, but the punishment can be more severe if crimes are committed against a child under 16 or a minor under 18. In addition to the ITPA, the Penal Code also contains provisions relating to prostitution of children by penalizing the procuring of a minor girl (of under 18 years old). It also prohibits, selling a minor for purposes of prostitution. The punishment for this offence is imprisonment up to ten years.

Trafficking in Children for Sexual Purposes: Though the Penal Code prohibits selling or buying of a minor for the purposes of prostitution, it leaves out many other related activities related to trafficking. The definition of trafficking for sexual purposes can be found in section 5 (A) of ITPA, as well as the definition of trafficking in human, which only focuses on trafficking for sexual exploitation. The Juvenile Justice (Care and Protection of Children) Act 2000 recognizes a child who is found vulnerable and is likely to be inducted into trafficking

as a child in need of care and protection and includes provisions for rescue and rehabilitation as well as encouraging government and local authorities to establish child care centres.²²

Child Pornography:

No Indian law has mentioned the term “child pornography”. The Indecent Representation of Women (Prohibition) Act 1986 (IRWPA) prohibits indecent representations of women in various forms.²³ It also criminalizes the performance of obscene acts and songs with imprisonment of up to three months, but does not punish the audience or those who make the person perform such act. Finally, the Information Technology Act, 2000 (ITA), penalizes the publication or transmission of any indecent material in electronic form. The Amendment in 2008, punishes the publication and transmission of material in any electronic form which depicts children engaged in sexually explicit act, or obscene or indecent or sexually explicit manner.²⁴

Extraterritorial legislation regarding child sex tourism:

Indian laws also apply to foreign sex tourists who commit offence in Indian territory. However, the implementation of the law to the latter is rather ineffective. Furthermore, the extradition of an offender from India to a foreign country is governed by bilateral extradition treaties and Extradition Act 1962, for non-treaty states. Extraditable offences are offences that are punishable for at least one year of imprisonment. Also, an extradition offence committed outside the territory by an Indian national or against an Indian national is deemed to have been committed in India, and shall be liable under Indian law.

Child Protection Units:

The Juvenile Justice (Care and Protection of Children) Act 2000 mandates one Child Welfare Committee (CWC) in each district to ensure care and protection of children. This legislation also requires a Special Juvenile Police Unit to be created in each district to coordinate and improve child treatment, but this does not take place in every district

across the country.²⁵ Every police station has designated two or three police officers to act as child welfare officers. Thirty eight Anti Human Trafficking Units have been set up in local police agencies in several states such as Bihar, West Bengal and Andhra Pradesh. The Indian police also established cyber police station as an effort to combat cybercrime including online child pornography.

Support Services for Children:

The Ministry of Women and Child Development (MWCD) has developed a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victim of Trafficking for Commercial Sexual Exploitation.²⁶ The government also launched a scheme in 2001 for rescued women and children trafficking victims and provides funds to immediate shelters. Up to now, the scheme has supported over 200 shelters in the country.²⁷ Government shelters for sex

trafficking victims can be found in major cities, but none of them are specialized for children. As a consequence, many of them work closely with NGOs and Child Welfare Committees. Many NGOs provide direct supports for child victims of sex trafficking, such as vocational training, education, counseling and health care.

Training law enforcement personnel:

The UNODC has been playing a major role in providing training to police officers, especially on the investigation and identification of victims of trafficking. Recently, more attention has been drawn to cybercrime, which includes child pornography. The National Police has partnered with civil societies in organizing many workshops and trainings, for example, a workshop about new technology countering online child pornography. However, the training and capacity building of other stakeholders in the juvenile justice system is still needed.

Child and Youth Participation

The National Commission for Protection of Child Rights (NCPCR) has included child participation in their policy. The Rules of the Commission for Protection of Child Rights Act 2005 mandates that the NCPCR's work to be directly informed by views of children.²⁸ In addition, the ECPAT Youth Partnership

Project for Child Survivors of Commercial Sexual Exploitation in South Asia (YPP) has been active since 2005. The project involves young survivors of CSEC and at-risk youth in implementation of awareness raising campaigns.

Priority Actions Required

National Plans of Action:

Sufficient financial and human resources should be allocated to the implementation of action plans. Also, the mechanism of monitoring the implementation of the plans should be strengthened. The government should also develop action plans to tackle the prostitution of boys and child sex tourism.

Coordination and Cooperation:

Coordination should be strengthened between Indian police and other international agencies such as Europol. The government should also enhance the cooperation with countries of origins of child sex tourists. At national level, there should be more effective coordination of

all concerned ministries and other government entities in order to ensure protection of children.

Prevention:

The government should implement more CSEC-related awareness raising campaigns directed at students and children at risk. The government should also make more effort in combating religious practices which contribute to sexual abuse in children by enforcing raising awareness and enacting strict laws.

Protection:

National legislation must be modified in order to be in line with international law, especially

the Trafficking Protocol and the OPSC. The modification of national law must also result in equal protection of boys and girls for CSEC related offences. A child-friendly procedure should also be developed and protection service providers should be trained, as well as law enforcers. In addition, more attention should be paid to legal instruments combating child sex tourists.

Child and Youth Participation:

The government should disseminate information on children's and young people's rights. Also, child and youth participation should be recognized as a priority in planning, implementation and the evaluation of policies and programmes at all levels that affect their lives.

Endnotes

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