BRIEFING PAPER



This briefing paper has been compiled using information included in the Out of the Shadows Index¹ and the ECPAT Country

Overview for India²

WHAT IS THE OUT OF THE SHADOWS INDEX?

The **Out of the Shadows** Index, developed by the Economist Intelligence Unit, measures how nations are addressing child sexual abuse and exploitation. Data released for the first 60 countries demonstrate that governments, the private sector and civil society need to do more to protect children from sexual violence and meet the commitments they made to Target 16.2 of the UN's Sustainable Development Goals.

The **Index** was calculated by assessing legislation, policies and responses by national governments. It covers critical issues that underpin child sexual exploitation and abuse, including education, reproductive health, victim support, law enforcement and risks from the online world. The **Index** also addresses environmental factors such as the safety and stability of a country, social protections, and whether norms permit open discussion of the issue. It also focuses on the engagement of businesses in the technology and travel/tourism sectors in fighting child sexual abuse and exploitation.

WHAT ARE THE ECPAT COUNTRY OVERVIEWS?

comprehensively present all the existing, publicly available information, and a detailed analysis of the legal framework for sexual exploitation of children (SEC) in a country. They provide an assessment of achievements and challenges in implementation, counteractions to eliminate SEC and they suggest concrete priority actions to advance the national fight against SEC.

SEXUAL EXPLOITATION OF CHILDREN IN

INDIA



India ranked 15th out of 60 countries scored in the *Out of the Shadows Index* on the country's response to child sexual exploitation and abuse, with a score of 58.2.³ This ranking places it just below Serbia (59.1) and just ahead of South Africa (58.1).⁴

India's score on the *Index* is largely explained by a robust legal and operational framework for tackling the sexual exploitation of children. India also has strong civil society participation in activities relating to sexual exploitation of children, as evidenced by the multitude of awareness raising initiatives carried out at both state and national levels.⁵ Additionally, India has strong reporting mechanisms that can be utilised by child victims of sexual exploitation.⁶ However, much remains to be done to ensure that children in India are fully protected. For example, India needs to work to address discriminatory conditions facing minority groups, as well as improve the quality of data collection on child sexual exploitation in order to better inform effective and accurate policy responses.

DEFINING SEXUAL EXPLOITATION OF CHILDREN

Child sexual abuse refers to sexual activities committed against children, by adults or peers and usually involves an individual or group taking advantage of an imbalance of power. Force may be used, with offenders frequently using authority, power, manipulation, or deception.⁷

Child sexual exploitation involves the same abusive actions. However, an additional element must also be present - exchange of something (e.g., money, shelter, material goods, immaterial things like protection or a relationship), or even the mere promise of such.⁸ It can occur offline, online and through a combination of both.

The *Out of the Shadows Index* reports India as having a relatively safe and stable environment.⁹ While India has made substantial progress in reducing poverty throughout the 2000's, latest available estimates from

the World Bank in 2015 indicated that 176 million people were still living in poverty.¹⁰ The COVID-19 pandemic has also threatened to reverse progress and push more people into poverty within the country.¹¹ Higher levels of poverty are likely to increase children's vulnerability to sexual exploitation.¹² The *Index* also identified that gender norms and poor social protections relating to education facilitated conditions that can enable the sexual exploitation of children.¹³

Social norms and attitudes

India scored 45/100 for the **Index**'s indicator on societal attitudes towards sex, sexuality and gender and 48/100 for the **Index**'s indicator on social protections provided to children.

Gender discrimination is a major concern in India, with girls facing limitations on their free movement, education, work, marriage and social relationships. 14 Boys are also affected by gender norms, with a patriarchal society and masculinity expectations resulting in a lack of focus on male vulnerability to sexual abuse and exploitation as well as underpinning men's violence against women and girls. 15 Additionally, children of all genders are affected by high levels of stigma, as well as shame and silence in relation to sexual abuse and exploitation, leading to lower levels of reporting of such crimes.¹⁶ Further, while a child from any caste can be vulnerable to sexual exploitation, the associated stigma, poverty and social exclusion that persist for some castes can also exacerbate vulnerability.17

Social norms also mean Indian children, and particularly girls, are extremely vulnerable to child, early and forced marriage. The scale of the problem can be seen from UNICEF estimates published in 2021 which indicated that, in the years 2014-2020, 27% of women aged between 20-24 in India were married by 18, and 7% by the age of 15. Poverty, barriers to education and practices such as paying dowry all contribute to the high levels of child marriage within India. 19,20

Vulnerabilities to sale and trafficking of children for the purposes of sexual exploitation

Children in India are extremely vulnerable to being trafficked for the purposes of sexual exploitation. Various sources have indicated that domestic trafficking of children for sexual purposes is a prominent issue within the country.^{21,22} Available data is not disaggregated to indicate the types of trafficking children experience, so determining how many are trafficked for sexual purposes in India isn't possible. However, the latest available crime statistics from 2020 show that there were 2,222 child victims of trafficking overall.²³ Of course, trafficking is very likely underreported and therefore only indicates what is known. The true reality of the situation likely impacts many more.²⁴ Additionally, it has been reported that cross-border trafficking of children continues, 25 with previous research identifying, for example, Nepali girls being trafficked to large Indian cities for sexual purposes.26

Research has identified children from tribal communities as facing heightened risks to being exploited in prostitution²⁷ and to being trafficked for sexual purposes.²⁸ Given that poverty and a lack of access to livelihood opportunities are contributing factors to vulnerability to sexual exploitation, the COVID-19 pandemic and associated job losses within India²⁹ are likely to have exacerbated risks of children being subjected to sexual exploitation.

India ensures that vulnerabilities to sexual exploitation of children are addressed in programmes relating to gender discrimination and child early and forced marriage

India implements effective programmes that tackle the root causes of trafficking - such as poverty and discrimination – especially to support minority groups

LEGAL FRAMEWORK

India has strong legal protections against offences related to child sexual exploitation. The country has also ratified most major international conventions relevant to the fight against sexual exploitation of children and is party to additional international and regional frameworks. India has also gradually adopted and amended national laws related to child sexual exploitation in order to align with its international and regional commitments. Notably, the adoption of the Protection of Children from Sexual Offences Act³⁰ and later amendments to ensure this is gender-blind, should be commended. If enacted, the recent 2021 Trafficking in Persons (Prevention, Care and Rehabilitation) Bill would be a further positive step towards aligning India's legislation with international standards.³¹ However, the bill has important shortcomings, such as the inclusion of the death penalty for certain offences.

Limitations still exist in India's legislation. For example, the legislation offering protection to children from being exploited in prostitution could be improved as many of the offences relating to children are grouped in with those relating to adults. Prosecution efforts could be aided by creating separate offences for children, including provisions explicitly prohibiting children from being prosecuted for prostitution and by providing a definition of exploitation of children in prostitution in line with international standards.

Gendered provisions within the Indian legislation

There are a number of gendered provisions under the Indian legislation that offer protection only to girls, thereby leaving boys vulnerable. In India, the vulnerability of boys to sexual offences is under recognised³² and so it is important that legal provisions do not perpetuate this lack of awareness that boys may be victimised. For example, under the Penal Code, there is a specific provision relating to the "procuration of minor girls". Crime statistics from 2020 show that there were 2,471 incidences of this crime, 4 emphasising that the provision is still heavily used and indicating that the same crimes against boys may be overlooked.

The Indian Penal Code also contains gendered provisions for child rape. The Index provides a score of 0/100 for the protection of boys from child rape laws as Section 375 only covers the rape of girls and therefore leaves boys outside of its protection.³⁵ This is especially problematic when we consider that India also does not have a close-in-age exemption protecting peers from prosecution for mutually willing sexual activity. This means that boys may face prosecution for child rape for sex with a girl aged under 18, regardless of whether they both were willing partners.³⁶ The crime of marrying a child under the Prohibition of Child Marriage Act also applies only to "adult males",³⁷ potentially allowing female adult offenders to avoid punishment.

Online child sexual exploitation

The Internet and Mobile Association of *India reported that there were 504 million* active Internet users in the country in 2019.38 Additionally, the latest available crime statistics from 2020 indicate a rise in cases involving child sexual abuse materials within the country, with 738 recorded cases compared to 102 in 2019.³⁹ Research has also identified both offenders and victims of live-streaming of sexual abuse within India,⁴⁰ and recorded cases of sexual extortion committed against children.⁴¹ Despite the high level of connectivity and indications of vulnerabilities of children to online risks, there are a number of online child sexual exploitation offences which the law does not yet adequately define and criminalise. For example, while the POCSO Act provides a fairly broad definition of child sexual abuse material (including digitally generated images such as realistic images of non-existent children), it does not explicitly cover material other than visual or depictions of sexual parts of a child for primarily sexual purposes and so cannot be said to be fully in line with international standards. Further, the legislation is silent on the live-streaming of child sexual abuse and sexual extortion of children.



India ensures all legislation related to sexual exploitation of children is gender-blind so all children are equally protected

India criminalises behaviours related to child sexual exploitation involving technology, such as defining live-streaming and sexual extortion of children and improving provisions that could be used to prosecute online grooming

GOVERNMENT COMMITMENT AND CAPACITY

In 2013, the National Child Protection Policy was approved,⁴² which laid out guiding principles that must be followed by national, state and local governments in their actions and initiatives. The government has included certain forms of sexual exploitation of children in its National Plan of Action for Children

53/100

2016⁴³ but has neglected others, as detailed below. While national data is collected and available on child sexual exploitation crimes, detail is lacking so specific disaggregation on how children are affected is not possible.

National action plans, policies and institutions

India does not have a national action plan specifically addressing the sexual exploitation of children. Instead, the National Plan of Action for Children from 2016 contains a number of strategies and actions that are relevant. While the plan addresses issues such as child trafficking, child marriage and online sexual exploitation of children, it is silent on the exploitation of children in prostitution. Additionally, although the plan recognises that the sexual exploitation of children in travel and tourism is an emerging threat, it does not contain any strategy or action that sets out how to deal with the issue. There also appears to be little monitoring of progress against the plan.

Partly in response to the widely publicised Muzaffarpur shelter case in 2018, in which 12 offenders received life imprisonment for sexually abusing girls, 46 the government prioritised drafting of a new National Policy for Children that included a new code of conduct based on "zero tolerance of child abuse and exploitation" that would be required of organisations dealing with children. 47 Despite being drafted three years ago, this new policy has still not been implemented. 48

Data collection on sexual exploitation of children

There is very little research on the sexual exploitation of children in India. Further, the limited formal data collection relating to child sexual exploitation in India by police and authorities is not disaggregated or categorised. This hinders the country's response to the issue as the scope of the problem is unclear, as is illustrated by India's score of 39/100 for the indicator of data collection in the **Index**.⁴⁹

India does make crime statistics of some offences related to sexual exploitation of children publicly available, but these statistics are limited and lack detail or disaggregation. There has been very little research or evidence gathering conducted on the topic, making it extremely difficult to accurately estimate the scope of sexual exploitation of children. More detailed data could be used to better understand prevalence in the country and how different populations are vulnerable. Better data allows better planning and delivery of targeted prevention programmes, and tailored responses to affected children.



India updates and strengthens the National Action plan for children, including a specific section on child sexual exploitation with clear actions. Monitoring and reporting of progress should be built in

India improves the quality and detail of data related to child sexual exploitation so that it is consistent, disaggregated and categorised to better inform policy and programming responses

ENGAGEMENT OF INDUSTRY, CIVIL SOCIETY AND MEDIA

Indian civil society organisations prevent, raise awareness and provide support to child victims of sexual exploitation. Good practices are indicated by India scoring 100/100 on the Index's indicator on frontline support and on civil society engagement. 50 However, challenges do remain and further efforts are required from the technology and tourism industries to actively engage in prevention activities.

61/100

Private sector engagement

Engagement of the technology industry in preventing and responding to sexual exploitation of children in India is weak. The need for enhanced engagement with social media companies was outlined in a set of recommendations submitted to the Indian upper house of parliament in 2020.51 These recommendations called on social media companies to regulate content on their sites and to prevent the spread of child sexual abuse materials on their platforms.⁵² The need for enhanced cooperation between this sector and law enforcement is emphasised by research that shows offenders accessing children through social media platforms in order to sexually exploit them.⁵³ Additionally, Indian studies have indicated increased use of technology by trafficking offenders. 54,55 In the course of this research, little evidence of private technology companies engaging in awareness-raising or prevention activities within India in relation to child sexual exploitation was identified.

Further engagement in preventing and responding to the sexual exploitation of children is also required from the travel and tourism industry. This is exemplified by the fact that only three companies based in India and 31 with operations in the country have committed to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (The Code),⁵⁶ a global initiative which trains workers in the tourism industry to recognise and respond to sexual abuse and exploitation of children.⁵⁷



India requires technology companies to monitor, report and take down child sexual abuse materials on their platforms

India improves membership of 'The Code' among Indian companies and involves tourism operators in prevention and awareness raising activities relating to sexual exploitation of children

Endnotes

- The Economist Intelligence Unit. (2019). Out of the Shadows: Shining light on the response to child sexual abuse and exploitation.
- ECPAT International. (2021). ECPAT Country Overview: India. Bangkok: ECPAT International.
- 3. The Economist Intelligence Unit. (2019). Out of the Shadows: Shining light on the response to child sexual abuse and exploitation.
- 4. Ibid.
- ECPAT International. (2021). ECPAT Country Overview: India. Bangkok: ECPAT International.
- 6. Ibid.
- Interagency Working Group on Sexual Exploitation of Children. (2016). Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. Bangkok: ECPAT International. 18.
- 8. Ibid., 24.
- 9. The Economist Intelligence Unit. (2019). Out of the Shadows: Shining light on the response to child sexual abuse and exploitation. India.
- 10. The World Bank. (2020). Poverty and Equity Brief: India.
- 11. Ibid.
- 12. ECPAT International. (2016). Power, Impunity and Anonymity. 42
- **13.** The Economist Intelligence Unit. (2019). Out of the Shadows: Shining light on the response to child sexual abuse and exploitation. India.
- 14. UNICEF. (n.d.). Gender Equality.
- Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V. (2018). Child sexual abuse in India: A systematic review. PLoS ONE 13(10).
- **16.** Centre for Child and the Law, National Law School of India University. (2018). *Implementation of the POCSO Act, 2012 by Special Courts: Challenges and Issues.*
- 17. Equality Now. (2021). Sexual Violence in South Asia: Legal and Other Barriers to Justice For Survivors.
- 18. UNICEF. (2021). The State of World's Children2021: On My Mind Promoting, protecting and caring for children's mental health. UNICEF, New York. 233.
- 19. UNICEF. (2019). End Child Marriage A profile of progress in India.
- **20.** S. Soni. (2020). *Institution of Dowry in India: A theoretical inquiry.*
- **21.** ARZ. (2019). Trafficking of Women and Children for Commercial Sexual Exploitation (CSE) in Goa A Statistical Analysis (2014 to 2019). 3.
- **22.** Toast, Global Fund for Children. (2019). Scan of Issue Areas, Trends and Organisations Working in the Area of Child Trafficking in India.
- Government of India, National Crime Records Bureau. (2020). Crime in India 2020. Volume I.
- **24.** Toast, Global Fund for Children. (2019). Scan of Issue Areas, Trends and Organisations Working in the Area of Child Trafficking in India.
- 25. Ibid.
- **26.** Caritas India. (2017). A close look at Indo-Nepal Cross-Border Child *Trafficking*.
- **27.** U. Rana, D.Sharma, D.Ghosh. (2020). *Prostitution in northern central India: an ethnographical study of Bedia community.* International Journal of Anthropology and Ethnology.
- 28. Seefar. (2021). Understanding child trafficking and Commercial Sexual Exploitation of Children in West Bengal, India.

- **29.** Caritas India. (2020). *Human Trafficking and exploitation in India during the Covid-19 pandemic.*
- **30.** Government of India. (2012). *The Protection of Children from Sexual Offences Act, 2012.*
- **31.** Government of India. (2021). *The Trafficking in Persons (Prevention, Care and Rehabilitation) Bill.*
- **32.** Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V. (2018). *Child sexual abuse in India: A systematic review.* PLoS ONE 13(10).
- 33. Government of India. (1860). *Indian Penal Code (No. 45 of 1860)* (as amended in 2018), Section 366A.
- **34.** Government of India, National Crime Records Bureau. (2020). *Crime in India 2020.* Volume I.
- **35.** Government of India. (1860). *Indian Penal Code (No. 45 of 1860)* (as amended in 2018), Section 375.
- **36.** Centre for Child and the Law, National Law School of India University. (2018). *Implementation of the POCSO Act, 2012 by Special Courts: Challenges and Issues,* 184.
- **37.** Government of India. (2007). *The Prohibition of Child Marriage Act* (Act No. 6 OF 2007). Section 9.
- **38.** Internet And Mobile Association of India. (2019). *Digital in India* 2019 Round 2 Report.
- 39. Government of India, National Crime Records Bureau. (2020). Crime in India 2020. Volume I.; Government of India. (2019). Crime in India 2019.
- **40.** Netclean. (2019). *Netclean Report 2019. A report about child sexual abuse crime.*
- 41. UNICEF. (2016). Child Online Protection in India.
- **42.** Government of India. (2013). *The National Policy for Children* 2013
- **43.** Government of India. (2016). *National Plan of Action for Children* 2016
- 44. Ibid.
- 45. *Ibid*
- **46.** India Today. (2020). *Chronology of events in Muzzafarpur shelter home sexual assault case.*
- 47. Government of India. (2018). Draft Child Protection Policy.
- 48. EQUATIONS. (2021). Personal Communication.
- **49.** The Economist Intelligence Unit. (2019). *Out of the Shadows: Shining light on the response to child sexual abuse and exploitation.* India.
- 50. *Ibid.*
- 51. Parliament of India Rajya Sabha. (2020). Report of the Ad Hoc Committee of the Rajya Sabha to study the alarming issue of pornography on social media and its effect on children and society as a whole.
- 52. Ibid.
- **53.** R.Ferrao. (2020). *Sale and sexual exploitation of children in the context of travel and tourism in Goa.* Journal of Victimology and Victim Justice. Vol 3(I). 14.
- **54.** Toast Advisory, Global Fund for Children. (2019). *Final Report:* Scan of Issue Areas, Trends and Organisations Working in the Area of Child Trafficking in India.
- 55. ARZ. (2019). Trafficking of Women and Children for Commercial Sexual Exploitation (CSE) in Goa A Statistical Analysis (2014 to 2019).
- 56. The Code. (n.d.). Our members India
- 57. The Code. (n.d.). About.



