

ECPAT



COUNTRY OVERVIEW

*A report on the scale, scope and context
of the sexual exploitation of children*

August, 2022



BANGLADESH

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PREFACE

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children enshrined in the Sustainable Development Goals adopted by world leaders in 2015.

ECPAT Country Overviews on the sexual exploitation of children provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the Sustainable Development Goals to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of sexual exploitation of children in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate the sexual exploitation of children.

ECPAT Country Overviews also suggest concrete priority actions urgently needed to proactively advance the national fight against sexual exploitation of children and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

AT A GLANCE

Bangladesh has a population of around 164.6 million people, approximately 52.7 million of whom are under the age of 18. In 2021, the World Bank estimated that the gross domestic product per capita in Bangladesh was 170,408 Bangladeshi taka (\$USD 1,805 as of August 2022). Bangladesh has made substantial progress towards poverty reduction throughout the last number of decades. However, the World Bank reported that the COVID-19 pandemic caused the rate to rise again to 18.1% in 2020. Given Bangladesh's population, this indicates that over 29 million people were living in poverty. Research has indicated that high rates of poverty in Bangladesh make children more vulnerable to being exploited in prostitution, as well as being trafficked and falling victim to child, early and forced marriage.

Bangladesh is vulnerable to a number of extreme weather events and natural disasters, with the country experiencing floods, droughts, cyclones, landslides and tidal surges. Such climate-related shock events can increase the vulnerability of children to sexual exploitation crimes. As illustrative examples, research highlighted that after Cyclone Sidr in 2007 and Cyclone Aila in 2009 increases were observed in both trafficking of children and child marriage, due to the loss of livelihood, increase in poverty and displacement.

Children from minority groups in Bangladesh are vulnerable to being sexually exploited. Following the targeted violence against the Rohingya population in Myanmar in 2017, large numbers of the affected population fled across the border to seek refuge in Bangladesh. The majority of this displaced group now reside in camps in Cox's Bazar, with the most recent data from December 2021 indicating the total population included 451,662 children. Rohingya children in these camps are at high risk of falling victim to sexual exploitation, child marriage and trafficking.

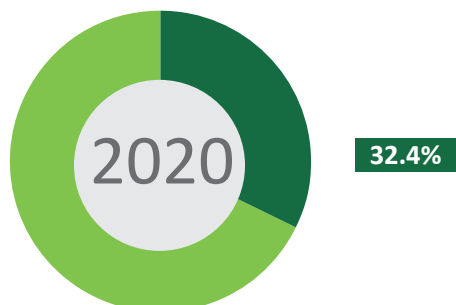
Bangladesh has ratified most major international conventions against child sexual exploitation and is party to additional international legal frameworks. While national level legislation has gradually adapted to align with its international commitments, limitations still exist. For example, some crimes relating to online child sexual exploitation rely on provisions for pornography in general rather than specific offences for child sexual abuse materials. Further, crimes such as grooming of children or live streaming of child sexual abuse are not criminalised. Children are inadequately protected from child, early and forced marriage as the law allows them to marry under "special circumstances".

Although Bangladesh has some national plans that address aspects of sexual exploitation of children, implementation has been weak and certain areas such as exploitation of children in prostitution, online child sexual exploitation and sexual exploitation in a context of travel and tourism have not been specifically targeted. Further, more needs to be done to ensure children can avail of the child sensitive justice measures provided in the Children's Act and to provide access to recovery and reintegration services for all child victims.

POPULATION

SOURCE: UNICEF (2021). *The State of the World's Children 2021*

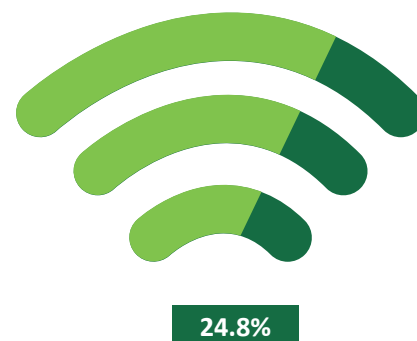
Children under 18 years



INTERNET ACCESS

SOURCE: ITU Statistics 2020: Country Profile

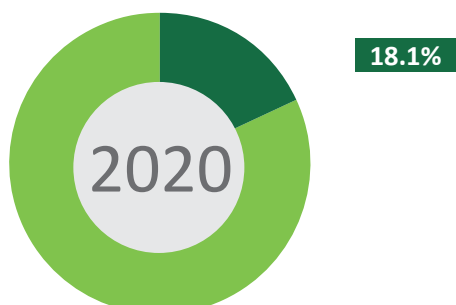
Have internet access



POVERTY RATE

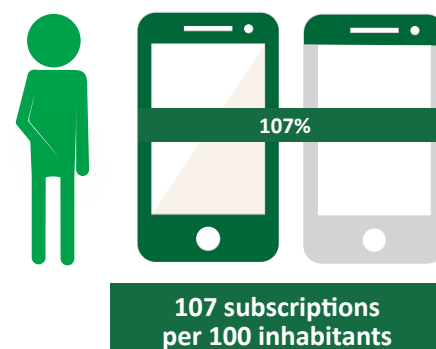
SOURCE: Poverty & Equity Data Portal: World Bank

Living under the national poverty line



MOBILE PHONE USERS

SOURCE: ITU Statistics 2020: Country Profile



CHILDREN'S RIGHTS UNDER THE LAW

	Girls	Boys
Age of consent for sex	14	No minimum age of consent
Minimum age for marriage	18*	21*
Legal working age	14	14
Compulsory age of schooling	6-12/13**	6-12/13**

* An exception exists whereby children may marry "under special circumstances" and with parents permission.

** Bangladesh makes education compulsory until completion of a certain grade rather than age.

INTRODUCTION

Bangladesh is a South Asian country bordered by India and Myanmar.¹ It is a parliamentary democracy organised into 8 divisions, with the capital city being Dhaka.² According to the latest available statistics from UNICEF, the population of Bangladesh was 164,689,000 in 2020, with 32.4% of the population being under 18 and 8.7% being under 5.³ Globally, the average enrolment in primary education is 93% for boys and 91% for girls.⁴ Between 2012 and 2018, the latest timeframe for which UNICEF has provided such data for Bangladesh, 92% of boys and 98% of girls in Bangladesh were enrolled in primary education,⁵ meaning that the enrolment of girls is more successful than global averages whilst enrolment of boys falls slightly below. At higher levels of education however, in the period 2013-2019, 59% of boys and 64% of girls were enrolled in upper secondary education, numbers that are significantly below the global average for boys and slightly below for girls (65% for both boys and girls).⁶ Lower levels of education are associated with risks of sexual exploitation.⁷ Research has found that young people not enrolled in formal education, tend to fall outside of the social mainstream.⁸ The education system works as a protection mechanism for children, enabling a sense of belonging and stability and spotting risks.⁹ Those children outside of education can be vulnerable to adults and peers seeking to exploit them.

In 2021, the World Bank estimated that the gross domestic product per capita in Bangladesh amounted to 170,408 Bangladeshi taka (\$USD 1,805 as of August 2022).¹⁰ Bangladesh has made substantial progress towards poverty reduction, with the World Bank reporting a decline in the proportion of the population living in poverty from 43.5% in 1991 to 14.3% in 2016.¹¹ The World Bank reported that the COVID-19 pandemic caused the rate to rise again to 18.1% in 2020. Given Bangladesh's population, this indicates that over 29 million people were living in poverty.¹² High rates of poverty are likely to indicate heightened risk of children being sexually exploited and demand often gravitates towards areas in which economic deprivation is higher.¹³

Physical violence against children is a widespread problem in Bangladesh. According to the Multiple Indicator Cluster Survey conducted in 2019, 88.8% of children aged 1-14 reported having experienced some form of physical punishment by caregivers in the month prior to the survey.¹⁴ Further, in a 2018 survey conducted by non-governmental organisations BLAST and Save the Children, 52% of fathers and 54% of mothers from a total of 400 households believed it was justifiable to physically punish a child when they had done something wrong.¹⁵ In addition, child homicide is a concern.

1 Government of Bangladesh. (n,d). *Bangladesh at a Glance*.

2 *Ibid.*

3 UNICEF. (2021). *The State of the World's Children 2021: On My Mind – Promoting, protecting and caring for children's mental health*. UNICEF, New York. 188.

4 *Ibid.*, 231.

5 UNICEF. (2019). *The State of the World's Children 2019: Children, Food and Nutrition, Growing Well in a Changing World*. 228

6 UNICEF. (2021). *The State of the World's Children 2021: On My Mind – Promoting, protecting and caring for children's mental health*. UNICEF, New York. 231.

7 ECPAT International. (2016). *Power, Impunity and Anonymity*. 39.

8 London Metropolitan University. (2017). *Key messages from research on child sexual exploitation: Professionals in school settings*. 5.

9 *Ibid.*

10 The World Bank (2020). *GDP per capita, South Asia – Bangladesh*.

11 The World Bank. (2021). *Overview: Bangladesh*.

12 UNICEF. (2021). *The State of the World's Children 2021: On My Mind – Promoting, protecting and caring for children's mental health*. UNICEF, New York. 231.

13 ECPAT International. (2016). *Power, Impunity and Anonymity*. 42.

14 Bangladesh Bureau of Statistics (BBS) and UNICEF Bangladesh. (2019). *Progotir Pathey, Bangladesh Multiple Indicator Cluster Survey 2019, Survey Findings Report*. Dhaka, Bangladesh. 42.

15 BLAST & Save the Children. (2018). *Baseline Report: Stop Tolerating Violence Against Children*. 11.

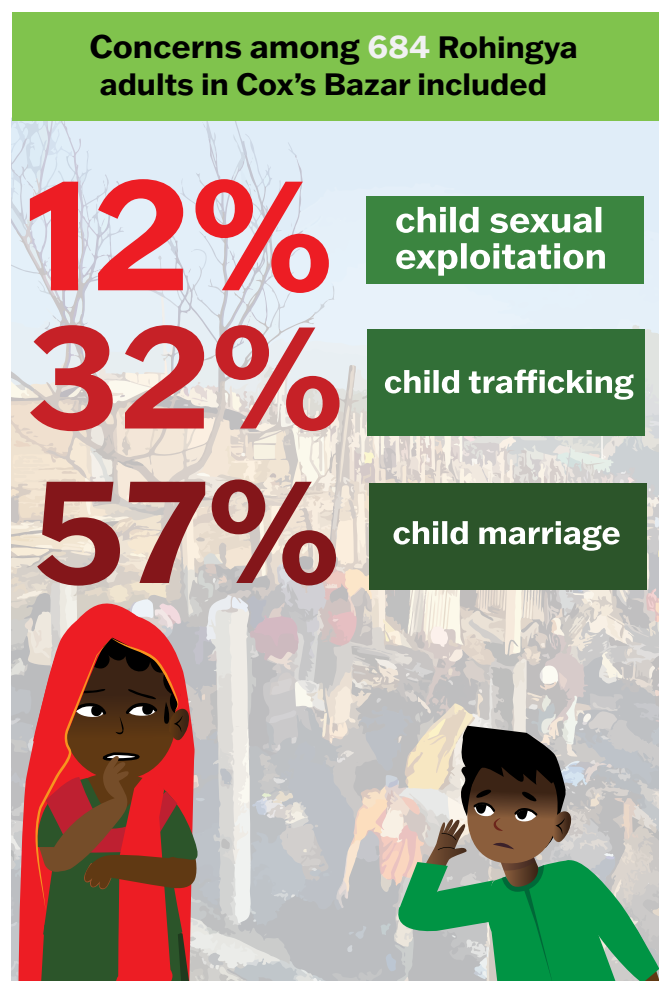
Non-governmental organisation, Bangladesh Shishu Adhikar Forum, provided analysis of 15 major newspapers for 2019, indicating 448 child murders for that year alone.¹⁶ The research categorised the majority of these cases as being a consequence of a familial dispute.¹⁷ Given this data includes only those murders which were reported in newspapers, it is unlikely to be representative of the true number of child homicides. Children are also suffering sexual violence, with the same report identifying 1005 cases of child rape covered by newspapers in 2019, which the report notes is a 76% increase from 2018 (571).¹⁸ Again, the true number of cases is likely to be much higher. Indeed, research has indicated that rape of children is an underreported crime in Bangladesh due to the social stigma of being identified as a victim.^{19,20}

Bangladesh is vulnerable to a number of extreme weather events and natural disasters, with the country experiencing floods, droughts, cyclones, landslides and tidal surges.²¹ Such climate-related shock events can increase the vulnerability of children to sexual exploitation crimes. As illustrative examples, research highlighted that after Cyclone Sidr in 2007^{22,23} and Cyclone Aila in 2009^{24,25} increases were observed in both trafficking of children and child marriage, due to the loss of livelihood, increase in poverty and displacement.

Further, these natural disasters are expected to become more common as the effects of climate change intensify.²⁶ With coastal erosion worsening and natural disasters striking more regularly it is likely that Bangladesh will see an increase in the displaced population within the country,²⁷ a factor linked to higher rates of human trafficking.²⁸

Following the targeted violence against the Rohingya population in Myanmar in 2017, large numbers of the affected population fled across the border to seek refuge in Bangladesh. The majority of this

displaced group now reside in camps in Cox's Bazar, with the most recent data from December 2021 indicating the total population included 451,662 children of whom 220,111 were girls and 231,511 were boys.²⁹ Rohingya children in these camps are at high risk of falling victim to sexual exploitation, child marriage and trafficking.³⁰ Indeed, in a 2021 survey of 684 adult community members conducted by the Cox's Bazar Child Protection Sub Sector, 12% indicated that child sexual exploitation was a concern, whilst 32% identified child trafficking and 57% child marriage as protection concerns.³¹



16 Bangladesh Shishu Adhikar Forum. (2020). *State of Child Rights in Bangladesh 2019*. 21.

17 *Ibid.*

18 *Ibid.*, 42.

19 Jahan, M. (2020). *Analyzing Child Rape in Bangladesh: A Socio-Legal Perspective*. *International Annals of Criminology*, 58(1), 19-38

20 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

21 The World Bank Group. (2021). *Bangladesh: Finding it Difficult to Keep Cool*. 1.

22 Poncelet, A. (2010). *A Country Made for Disasters: Environmental Vulnerability and Forced Migration in Bangladesh*. *Environment, Forced Migration, Social Vulnerability*.

23 International Center for Research on Women. (2013). *Child Marriage in South Asia: Realities, Responses and the Way Forward*, 6.

24 IOM. (2016). *The Climate Change Human Trafficking Nexus*. 6.

25 Human Rights Watch. (2015). *Marry before your house is swept away*.

26 IOM. (2016). *The Climate Change Human Trafficking Nexus*.

27 Environmental Justice Foundation. (n,d). *Climate Displacement in Bangladesh*.

28 IOM. (2016). *The Climate Change Human Trafficking Nexus*.

29 Inter Sector Coordination Group. (2021). *Joint Response Plan: Rohingya Humanitarian Response*. 8.

30 Save The Children. (2021). *No Safe Haven: The Plight of Rohingya Children Across South Asia*. 16.

31 Cox's Bazar Child Protection Sub Sector. (2021). *Findings from the Child Protection Assessment in Rohingya Refugee Camps in Cox's Bazar*. 5.

CONTEXT FOR SEXUAL EXPLOITATION OF CHILDREN IN BANGLADESH

EXPLOITATION OF CHILDREN IN PROSTITUTION³²

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography defines ‘child prostitution’ as “the use of a child in sexual activities for remuneration or any other form of consideration”.³³

The last widespread government data on children exploited in prostitution was gathered by the Bangladesh Bureau of Statistics in 2008. It confirmed that children were exploited in prostitution in different establishments throughout Bangladesh.³⁴ This is supported by the US Department of Labour which emphasised in its 2019 country report on the worst forms of child labour that sexual exploitation of children continued in illegal and legal brothels within the country, with the problem remaining widespread.³⁵ Other available evidence from academic studies, non-governmental organisations and media reports suggests that the problem persists.

Children in Bangladesh are exploited through prostitution in quasi legal brothels, illegal brothels, hotels, private residences and on the street.³⁶ A 2016 survey of 30 children exploited in prostitution in the city of Dhaka identified that children attributed push factors like peer pressure (16.6%), economic issues (20%), migration to cities in search of livelihood (20%) and family conflict and divorce (36.6%).³⁷ Further, the survey identified that children reported the principle adverse effects of sexual exploitation to be street victimisation (13.3%), social isolation (20%) and health issues (36.6%).³⁸ The non-governmental organisation, Aparajeyo-Bangladesh have reported that the main risk factors for children being exploited in prostitution include poverty, parental separation, family conflict, illness and previous abuse.³⁹ In addition, they note that children who migrate to larger urban areas frequently find themselves living on the street, thereby increasing their vulnerability to being exploited in prostitution.⁴⁰ Although there is a lack of research focusing on the issue, academic studies and reports from non-governmental organisations indicate that boys too are exploited in prostitution within Bangladesh.^{41,42} Lastly, in limited research on offenders, men in Bangladesh of all ages and classes were identified as exploiting children in prostitution.⁴³

In Bangladesh, adult prostitution, including the buying and selling of sexual services, is not criminalised. Keeping or managing a brothel is illegal in Bangladesh, yet sources indicate that there are

32 ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’ in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 30. Bangkok: ECPAT International.

33 UN General Assembly. (2000, May 25). *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263). Art. 2(b).

34 Masahiro Shoji, Kenmei Tsubota, (2021). *Sexual exploitation of trafficked children: Survey evidence from child sex workers in Bangladesh*, Journal of Comparative Economics.

35 US Department of Labour (2019). *Findings on the Worst Forms of Child Labor: Bangladesh*. 3.

36 *Ibid.*

37 Md. Kamruzzaman & Md Abdul Hakim. (2016). Prostitution Going Spiral: The Myth of Commercial Child Sex. International Journal of Biomedical and Clinical Sciences. Vol. 1, No. 1, 1-6.

38 *Ibid.*

39 Aparajeyo-Bangladesh. (2020) *Annual Report*. 53.

40 *Ibid.*, 53.

41 Masahiro Shoji, Kenmei Tsubota, (2021). *Sexual exploitation of trafficked children: Survey evidence from child sex workers in Bangladesh*, Journal of Comparative Economics.

42 Child Rights Advocacy Coalition in Bangladesh. (2020). *Progress on Implementation of Child Focused UPR Recommendations*. 40.

43 Bagley et al. (2017). Commercialised Sexual Exploitation of Children, Adolescents and Women: Health and Social Structure in Bangladesh. *Advances in Applied Sociology*, 7, 137-150.

quasi legal large scale brothel villages operating within the country.^{44,45} Official figures confirming exact numbers are not available. In order to work in these brothels, adult sex workers must sign an affidavit signifying that they are exercising a free choice and have chosen to work there.^{46,47}

Children living in these brothel villages were born there to mothers engaged in prostitution. Some of these children are also sexually exploited.⁴⁸ They face discrimination⁴⁹ and stigmatisation from birth,⁵⁰ and as a result face barriers in accessing education and healthcare, resulting in many remaining illiterate and suffering from various health issues.⁵¹ In addition, reports have identified that some of these children are forced to take steroids that make them appear older.^{52,53} Lastly, it has been reported that police have taken bribes to ignore the exploitation of children in these establishments, foregoing checks for children being sexually exploited and even providing fraudulent documentation for exploited children as young as 10 years old.^{54,55,56}

Rohingya children are also particularly vulnerable to being exploited in prostitution, with the International Organisation of Migration reporting in 2018 that Rohingya girls were sexually exploited in accommodation in Cox's Bazar.⁵⁷

The 2022 US Department of State's Trafficking in Persons report described the use of recruitment fraud and bonded labour to facilitate exploitation of children in prostitution.⁵⁸ This has been backed up by media investigations that uncovered children exploited as *chukris*, meaning they were forced to pay off large debts through being exploited in prostitution.⁵⁹

ONLINE CHILD SEXUAL EXPLOITATION

Online child sexual exploitation refers to situations involving digital, Internet and communication technologies at some point during the continuum of exploitation. It can occur fully online or through a mix of online and in-person interactions between offenders and children. Child sexual exploitation and abuse online includes an evolving range of practices including conduct related to child sexual abuse material (e.g. production, distribution, dissemination, possession of, etc.), grooming children online for sexual purposes, live streaming of child sexual abuse. Related concepts can include online sexual extortion, the non-consensual sharing of self-generated sexual content involving children, unwanted exposure to sexualised content, among others.

Internet usage has been steadily increasing in Bangladesh throughout the last two decades, with the International Telecommunications Union estimating that the percentage of individuals using the Internet rose from 0.7% in 2000 to 24.8% in 2020.⁶⁰ Data from the Bangladesh National Information Communication Technology Household Survey 2018-2019 indicated that males (53.2%) were more likely to have used the Internet in the previous three months than females (34.2%) and that those in urban areas (54.8%) were more likely to have access than those in rural areas (34.8%).⁶¹

44 Aparajeyo-Bangladesh. (2020) *Annual Report*. 43.

45 Bagley et al. (2017). Commercialised Sexual Exploitation of Children, Adolescents and Women: Health and Social Structure in Bangladesh. *Advances in Applied Sociology*, 7, 137-150.

46 Bangladesh High Court Division. (2000). *Bangladesh Society for the Enforcement of Human Rights (BSEHR) and Ors Vs. Government of Bangladesh and Ors*.

47 Global Network of Sex Work Projects. (n,d). *Bangladesh*.

48 Bagley et al. (2017). Commercialised Sexual Exploitation of Children, Adolescents and Women: Health and Social Structure in Bangladesh. *Advances in Applied Sociology*, 7, 137-150.

49 Save the Children. (2020). *Status Report: Violence Against Children in Bangladesh*. 5.

50 Bagley et al. (2017). Commercialised Sexual Exploitation of Children, Adolescents and Women: Health and Social Structure in Bangladesh. *Advances in Applied Sociology*, 7, 137-150.

51 Aparajeyo-Bangladesh. (2020) *Annual Report*. 43.

52 Bagley et al. (2017). Commercialised Sexual Exploitation of Children, Adolescents and Women: Health and Social Structure in Bangladesh. *Advances in Applied Sociology*, 7, 137-150.

53 US Department of State. (2022). *Trafficking in Persons Report*. 114.

54 *Ibid*.

55 Association for Community Development. (2022). Personal Communication.

56 Asia in Global Affairs. (2020). *Inside the Legal Brothels of Bangladesh*.

57 IOM. (2018). *Rohingya Refugee Crisis Response: Situation Overview of Human Trafficking*.

58 US Department of State. (2022). *Trafficking in Persons Report*. 114.

59 The Guardian. (2019). *The Living Hell of Young Girls Enslaved in Bangladesh's Brothels*.

60 ITU. (2020). *Percentage of Individuals Using the Internet*.

61 Alliance for Affordable Internet. (2019). *Bangladesh National ICT Household Survey 2018-2019*. 5.

of 460 children living in rural areas aged 11-17

21%

Received sexually explicit messages online



17%

Received pictures or videos that contained sexual content

Whilst the survey did not include data for children under the age of 15, the age group 15-24 was found to have the highest percentage of Internet users (80.7%).⁶² The increasing use of mobile phones and growing Internet connectivity, although bringing huge positives, also presents potential risks of child sexual exploitation in the form of connection to offenders who may groom and exploit children.⁶³

Although limited research on the issue makes it difficult to gauge the extent of the problem, available information suggests that children in Bangladesh are vulnerable to being sexually exploited online. The US based National Center for Missing and Exploited Children receives reports from technology companies based in the USA (such as Facebook, Microsoft etc.) and reported 817,687 reports of suspected child sexual abuse material related to Bangladesh in 2020. This represented an increase of 46.9% from the 2019 reports.⁶⁴ Save the Children reported that police were receiving 10-12 daily complaints of online sexual harassment and abuse of children and that girls are particularly vulnerable to sexual extortion crimes after being tricked into sharing sexually explicit content.⁶⁵ A 2016 UNICEF report identified sexual extortion of children as an area of concern within Bangladesh.⁶⁶ Lastly, in a news analysis, The non-governmental organisation Bangladesh Shishu Adhikar Forum, identified news coverage of 19 children who were described as “victims of pornography.”⁶⁷ Scant further information about the extent of online sexual exploitation being formally

reported to police in Bangladesh was identified in the course of this research. However, media have reported that police had identified criminal cartels involved with child sexual abuse materials.⁶⁸ In 2021, 460 rural children aged 11-17 were surveyed regarding online risks. 21% received sexually explicit messages online and 17% received pictures or videos that contained sexual content.⁶⁹ The data highlighted that more boys than girls reported each of these forms of online abuse.⁷⁰ Whilst this may be explained in part by boys having more access to the Internet in Bangladesh than their female peers,⁷¹ it emphasises that all children, irrespective of gender, may be vulnerable to online sexual exploitation and that legal and policy responses should reflect this fact.

The potential vulnerability of children to online grooming offences is highlighted by a 2019 UNICEF survey of 1281 Bangladeshi children aged between 10 and 17 in which 70% of boys and 44% of girls stated that they had made friends with unknown people online, with some also adding that they had later met these new contacts in person.⁷² While many of these instances may simply represent new friendships with same-age peers, the anonymity of the Internet means these circumstances can easily be exploited by offenders.

62 Ibid.

63 ECPAT International. (2020). *Summary Paper on Online Child Sexual Exploitation*. Bangkok: ECPAT International. 2.

64 National Center for Missing and Exploited Children. (n,d). *By the Numbers. 2019 and 2020 Reports by Country*.

65 Save the Children. (2020). *Status Report: Violence Against Children in Bangladesh*. 4.

66 UNICEF. (2016). *Victims Are Not Virtual: Situation assessment of online child sexual exploitation in South Asia*. 33.

67 Bangladesh Shishu Adhikar Forum. (2020). *State of Child Rights in Bangladesh 2019*. 43.

68 Newage Bangladesh. (2021). *Child pornography emerges as new menace*.

69 Mubassara et al. (2021). *Cyber Child Abuse in Bangladesh: A Rural Population-Based Study*. *World Journal of Social Science*. Vol. 8, No. 1.

70 Ibid.

71 Ibid.

72 UNICEF. (2019). *UNICEF calls for concerted action to prevent bullying and harassment for the 32% of children online in Bangladesh*.

Sale and trafficking of children for sexual purposes

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol), defines ‘trafficking in persons’ as “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”.⁷³

In case of child victims, Article 3 (c) of the Protocol specifies that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means stipulated in Article 3 (a)”.⁷⁴ In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.⁷⁵

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.⁷⁶

Children are trafficked for the purpose of sexual exploitation domestically within Bangladesh and across international borders.⁷⁷ International trafficking destinations include cities in India, Pakistan, the Middle East and Nepal.^{78,79} Indeed, a 2018 study into the sexual exploitation of children in the popular Indian tourist destination of Goa, found that the most common nationality of foreign trafficking victims was Bangladeshi, making up 42% of the measured population.⁸⁰ Domestic trafficking has received some

attention, with research published in 2021 indicating that 26.2% of 101 surveyed child trafficking victims were being sexually exploited in the same district as their hometown.⁸¹ Further, according to the International Organisation for Migration’s 2019 analysis of case data of adult and child victims trafficked from Cox’s Bazar, common destinations within Bangladesh include Chattogram, Dhaka and other districts of Cox’s Bazar.⁸² Lastly, UNHCR data from January to August 2021 identified that of 133 total adult and child

73 UN General Assembly. (2000, November 15). *United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)*. Res. 55/25 of 15. Art. 3 (a).

74 *Ibid.*, Article 3 (c).

75 OPSC, Article 2 (b).

76 ECPAT International. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 58. Bangkok: ECPAT International.

77 US Department of State. (2022). *Trafficking in Persons Report*. 114.

78 Aparajeyo-Bangladesh. (2020) *Annual Report*. 39.

79 BBC. (2018). *The Rohingya children trafficked for sex*.

80 Ferrao, R. (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.

81 Masahiro Shoji, Kenmei Tsubota, (2021). *Sexual exploitation of trafficked children: Survey evidence from child sex workers in Bangladesh*, *Journal of Comparative Economics*.

82 IOM. (2019). *IOM Case Data Analysis Human Trafficking*. 2.

trafficking victims, 60% were trafficked domestically.⁸³ Although the Government of Bangladesh releases crime statistics relating to trafficking crimes, they do not disaggregate the data by age nor type of exploitation. The 2022 US Department of State's Trafficking in Persons report noted that of the 620 suspects prosecuted for trafficking within the annual reporting period, 96 involved trafficking for sexual purposes.⁸⁴ However, it is unclear how many of these cases involved child victims as the data is not disaggregated by age. The most recently available statistics detailing child victims, from the Bangladeshi police, were reported by UNODC, showing that there were 155 identified child victims of trafficking in 2017 and 80 in 2018.⁸⁵ However, this data was not disaggregated by purpose and so it is unclear how many of these victims were trafficked for sexual exploitation.

A 2021 survey of 101 trafficked children illustrated that poverty (30.7%), harassment from family (14.6%), and being trafficked through a broker (30.2%) were key drivers.⁸⁶ The phenomenon of deceptive promises of work and marriage has been repeatedly named in Bangladesh instances of child trafficking.^{87, 88} Caregivers feel compelled to agree in the erroneous belief that children will be better off, a situation exacerbated when families are struggling with poverty and/or debt.⁸⁹ This is reflected in the 2021 study above, in which the most common approaches used by traffickers for the 101 child victims surveyed was assurance of a job (49.4%) and a promise of marriage (19.6%).⁹⁰ In addition, the research pinpointed that in 58.3% of the cases of trafficking of children brokers recruited the children before passing them on to local gangs. Other identified offenders included partners/friends (26.8%), strangers (21.1%), neighbours (12.3%) and relatives (10.4%).⁹¹

The limited data indicates that girls in Bangladesh are more likely to be trafficked for sexual purposes than boys. It's suggested that trafficked boys tend to more frequently experience forced labour.⁹²

However, boys have also been identified in Bangladesh as being trafficked for sexual purposes.⁹³ In 2020, the former UN Special Rapporteur on the sale and sexual exploitation of children emphasised that globally, sexual exploitation may happen concurrently with labour exploitation, domestic servitude or forced labour,⁹⁴ thereby highlighting the vulnerability of child victims to being sexually exploited, even when trafficked for such other purposes.

The most common approaches by traffickers on **101** child victims were

49.4%
assurance
of a job

19.6%
a promise of
marriage

The US Department of State's 2022 Trafficking in Persons report and information provided in a report by the Child Rights Advocacy Coalition in Bangladesh highlight that traffickers use the Internet to advertise and trade child victims and to target the victims themselves.^{95,96} In a high-profile case, media reported in 2021 that police arrested 11 members of a trafficking ring who were utilising social media platform TikTok to traffic girls and women from Bangladesh to India.⁹⁷ Media coverage has also highlighted the use of technology in relation

83 UNHCR. (2021). *Protection Sector Anti-Trafficking Dashboard*.

84 US Department of State. (2022). *Trafficking in Persons Report*. 110.

85 UNODC. (2020). *Global Report on Trafficking in Persons: Country Profile: South Asia*. 3.

86 Masahiro Shoji, Kenmei Tsubota, (2021). *Sexual exploitation of trafficked children: Survey evidence from child sex workers in Bangladesh*, Journal of Comparative Economics.

87 US Department of State. (2022). *Trafficking in Persons Report*. 109-115.

88 Free a Girl. (2019). *Annual Report*. 7.

89 Aparajeyo-Bangladesh. (2020) *Annual Report*. 30.

90 Masahiro Shoji, Kenmei Tsubota, (2021). *Sexual exploitation of trafficked children: Survey evidence from child sex workers in Bangladesh*, Journal of Comparative Economics.

91 *Ibid*.

92 US Department of Labour. (2019). *Findings on the Worst Forms of Child Labor: Bangladesh*.

93 Child Rights Advocacy Coalition in Bangladesh. (2021). *A Mid -Term Assessment by Stakeholders Progress on Implementation of Child Focused UPR Recommendations (September 2018 – December 2020)*. 40.

94 UN Special Rapporteur on the sale and sexual exploitation of children. (2020). *Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material*. A/ HRC/43/40. Paragraph 35.

95 Child Rights Advocacy Coalition in Bangladesh. (2021). *A Mid -Term Assessment by Stakeholders Progress on Implementation of Child Focused UPR Recommendations (September 2018 – December 2020)*. 40.

96 US Department of State. (2022). *Trafficking in Persons Report*. 115.

97 Al Jazeera. (2021) *Bangladesh Trafficking Gang Lured Girls Using Tiktok: Police*.

to traffickers sharing information online regarding access to Rohingya victims of trafficking.⁹⁸

In a 2019 report, the Special Rapporteur on the situation of human rights in Myanmar indicated that a lack of access to education for Rohingya children in Bangladesh increased their vulnerability to trafficking.⁹⁹ Although efforts are being made to increase access to education, a 2021 assessment by the Cox's Bazar Education Sector identified that, amongst Rohingya children living in camps in Cox's Bazar, 40% of boys and 93% of girls were not enrolled in secondary education.¹⁰⁰ In addition, a lack of access to livelihood opportunities makes approaches by traffickers more appealing, particularly when deceptive offers of employment are used.¹⁰¹ This is highlighted by UNHCR data collected on Rohingya trafficking victims in Cox's Bazar, in which 74% of the total victims (133 adults and children) reported having received promises of work before being trafficked.¹⁰² Of the 79 identified female victims, 27% were girls under 18 and of 54 total males, 33% were boys under 18.¹⁰³ Of the total 133 cases, 4 involved cases in which the victim was exploited for sexual exploitation.¹⁰⁴ As this data was not disaggregated by age, it is unclear if these involved children. This low proportion in official data of sexual exploitation cases was also reflected in the International Organisation for Migration's 2019 analysis of case data of victims, in which they explained the lower number of reported sexual exploitation cases may be due to social or religious norms discouraging discussions of sex, lack of knowledge on legal rights on behalf of trafficking victims or fear, stigma and shame commonly associated with these type of crimes.¹⁰⁵ Lastly, given that previous research has indicated that, in general, unaccompanied minors are particularly vulnerable to sexual exploitation,¹⁰⁶ it is worth mentioning that a 2019 UNICEF report estimated that there were 6000 unaccompanied Rohingya children in Cox's Bazar.¹⁰⁷

SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM

The sexual exploitation of children in travel and tourism is defined as any "acts of sexual exploitation embedded in a context of travel, tourism, or both".¹⁰⁸ The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.¹⁰⁹

Tourism has been increasingly important to the Bangladeshi economy, culminating in a contribution of 2.7% of total GDP in 2019.¹¹⁰ Whilst the COVID-19 pandemic saw this drop to 1.7% in 2020,¹¹¹ it is expected that as travel returns, the tourism sector will bounce back. Data from the World Bank highlights that international tourism rose consistently year on year between 2015 and 2019, with a rise of 39% between those years reaching 323,000 international tourist arrivals in 2019.¹¹² However, data from the World Travel and Tourism Council showed that domestic tourism contributed 96% of spending within the Bangladesh tourism sector, highlighting its importance over international tourism.¹¹³

Due to a distinct lack of research into the issue, very little is known about sexual exploitation of children in travel and tourism in Bangladesh. The US Department of State's 2022 Trafficking in Persons report indicated that tourists increased the demand for the sexual exploitation of children, in particular Rohingya girls near Cox's Bazar.¹¹⁴ This is backed up by reports in the media that detail how domestic

98 BBC. (2018). *The Rohingya children trafficked for sex*.

99 Human Rights Council (HRC). (2019). *Report of the Special Rapporteur on the situation of human rights in Myanmar*, Human Rights Council, 40th Sess., U.N. Doc. A/HRC/40/6. 9.

100 Cox's Bazar Education sector. (2021). *Assessment of the Education Sector Response to the Rohingya Crisis*. 26.

101 Caitlin McCaffrie (2019). *Displaced Rohingya Children and the Risk of Human Trafficking*. *Journal of Human Rights and Peace Studies* 2019, Vol. 5 Issue 1, 47 - 67.

102 UNHCR. (2021). *Protection Sector Anti-Tracking Dashboard*.

103 *Ibid*.

104 *Ibid*.

105 IOM. (2019). *IOM Case Data Analysis Human Trafficking*.

106 Chynoweth, S., J. Freccero and H. Touquet. (2017). 'Sexual Violence against Men and Boys in Conflict and Forced Displacement: Implications for the health sector', *Reproductive Health Matters*. Vol. 25. No. 51.

107 UNICEF. (2019) *Humanitarian Action for Children: Bangladesh*.

108 ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism (hereinafter Global study on SECTT)*. Bangkok: ECPAT International.

109 UNWTO. (2019). *UNWTO Framework Convention on Tourism Ethics*. UN Doc. A/RES/707(XXII). Art. 5 (3).

110 World Travel and Tourism Council. (2021). *Bangladesh: 2021 Annual Research: Key Highlights*.

111 *Ibid*.

112 World Bank. (n,d). *International tourism, number of arrivals – Bangladesh*.

113 World Travel and Tourism Council. (2021). *Bangladesh: 2021 Annual Research: Key Highlights*.

114 US Department of State. (2022). *Trafficking in Persons Report*. 115.

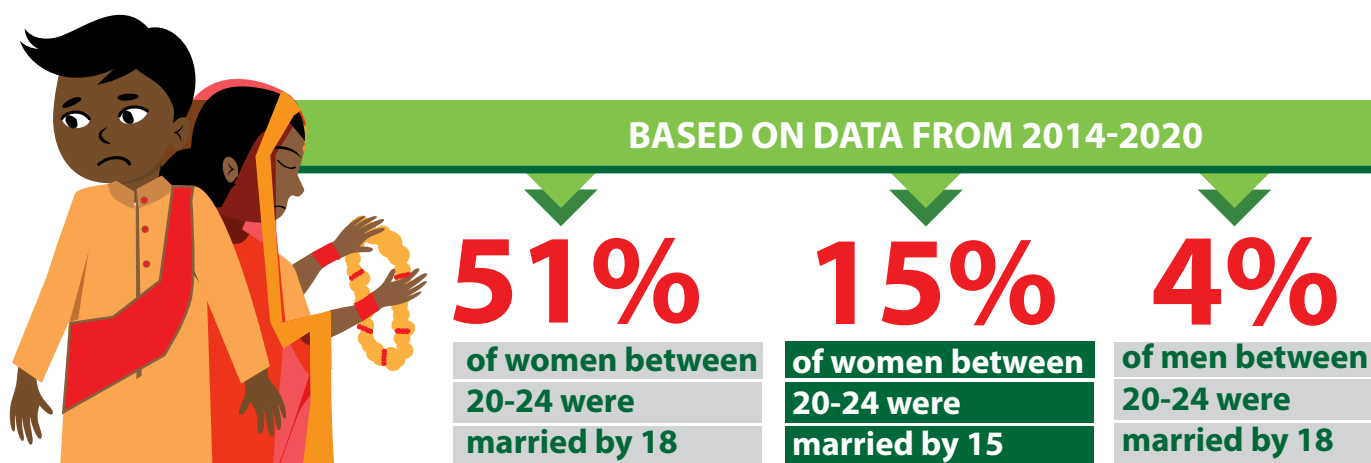
tourists sexually exploited Rohingya girls in brothels in this region.¹¹⁵ The International Organisation for Migration reported in 2018 that winter in Cox's Bazar was seen as "trafficking season" due to the influx of domestic and international tourists to sexually exploit women and girls.¹¹⁶ The report highlights that Rohingya girls are kept in locked houses during the day before being transported to tourist accommodation at night in order to be sexually exploited.¹¹⁷

As COVID-19 movement restrictions begin to lift and travel and tourism bounces back, efforts should be made to better protect children from being exploited in this context. As an example of good practice, travel and tourism operators in Bangladesh should become members of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism ('The Code').¹¹⁸ 'The Code' is a multistakeholder initiative to provide awareness, tools and support to companies in the tourism industry to prevent the sexual exploitation of children.¹¹⁹ To date, there are no companies based in Bangladesh and only 5 international companies with operations in the country that are members of the Code.¹²⁰ Increasing engagement with this initiative from Bangladeshi tourism operators would be a good step towards addressing the risks of sexual exploitation in travel and tourism in the country.

CHILD, EARLY AND FORCED MARRIAGE

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define 'child marriage' as "a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent".¹²¹ Child, early and forced marriage can be understood both as a form of or as a pathway to sexual exploitation.¹²²

Child, early and forced marriage in Bangladesh has received much attention. UNICEF's 2021 State of the World's Children report estimated that based on data from 2014-2020, 51% of women aged between 20-24 in Bangladesh were married by 18, including 15% by the age of 15.¹²³ Data from a 2020 UNICEF report indicated that child marriage of girls was more likely to occur in rural areas, with 54% of girls in these rural regions married before 18, compared with 44% of those in urban areas.¹²⁴ Whilst boys were affected at a much lower rate, the data indicates that 4% of men aged 20-24 were married before 18 within the same period.¹²⁵ Research



¹¹⁵ PBS. (2018). *Inside the Bangladesh brothels where Rohingya girls are suffering*.

¹¹⁶ IOM. (2018). *Rohingya Refugee Crisis Response: Situation Overview of Human Trafficking*.

¹¹⁷ Ibid.

¹¹⁸ The Code. (n.d.). *The Code: About*.

¹¹⁹ Ibid.

¹²⁰ The Code. (n.d.). *Our members – Bangladesh*.

¹²¹ Terminology Guidelines, 63.

¹²² ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International.

¹²³ UNICEF. (2021). *The State of the World's Children 2021: On My Mind – Promoting, protecting and caring for children's mental health*. UNICEF, New York. 228.

¹²⁴ UNICEF. (2020). *Ending Child Marriage: A profile of progress in Bangladesh*.

¹²⁵ UNICEF. (2021). *The State of the World's Children 2021: On My Mind – Promoting, protecting and caring for children's mental health*. UNICEF, New York. 228.

suggests that child marriage for boys may be for economic reasons, with families permitting marriage of boys as a way of easing financial burdens by receiving a dowry.¹²⁶ Moreover, early marriage can be perceived as a way of encouraging responsibility in boys who become the head of a family.¹²⁷ Considering that child, early and forced marriage is both a form of, and a pathway to sexual exploitation of children,¹²⁸ high rates of child marriage in Bangladesh are likely to leave children vulnerable to a multitude of sexual exploitation crimes.

A 2021 survey of 4433 parents and adolescents across 1164 households found that poverty, educational dropout, dowry and perceived protection against sexual harassment were common reasons given for child marriage.¹²⁹ Given that girls live with their husband or his family after marriage,¹³⁰ families facing economic hardship may deprioritise costs like education for girls and view early marriage as a strategy to reduce financial burdens.¹³¹ The effects of poverty are clear in analysis by UNICEF which show that 63% of girls from the poorest wealth quintile in Bangladesh were married before 18 compared with 38% of those from the richest quintile.¹³² As mentioned, children married before turning 18 are vulnerable to being sexually exploited. For example, children in Bangladesh have been subjected to false marriage arrangements before being trafficked or sold to brothels by their husband or in laws.¹³³

Linked to poverty, and a major driver of child, early and forced marriage is the practice of dowry within Bangladesh. Despite dowry being illegal in Bangladesh (as discussed in section 3.5), and the

majority of survey respondents knowing this, they did not feel this made a difference to the practice continuing.¹³⁴ Around two thirds of respondents believed a dowry would be expected within their community.¹³⁵ In general, dowry is inversely proportional to the age of the child; the lower the age of the bride, the higher the price the groom's family will pay.¹³⁶ This is also the case in Bangladesh, where research shows that parents feel pressure to permit marriage earlier due to expected dowry increasing with the age and educational levels of girls.¹³⁷ In addition, respondents were also aware that the practice of dowry had adverse consequences for married girls, resulting in ill treatment by in laws when dowry gifts were deemed inadequate.¹³⁸ In general, research has indicated that when married children live with their new family members, power imbalances are often present and may leave them vulnerable to being sexually exploited by unfamiliar adults.¹³⁹

A clear protective factor for child, early and forced marriage in Bangladesh is girls' education. A 2020 UNICEF report shows that 67% of girls who had completed no education or only primary education were married before 18.¹⁴⁰ In stark contrast, only 23% of girls who had completed higher education were married before turning 18.¹⁴¹ Previous research from Human Rights Watch indicated that girls were often married as soon as their parents could no longer afford to educate them.¹⁴² Further, given that girls were expected to leave the family home once married, educating sons was deemed a priority to better facilitate their future employment and hence income-generating ability for the family.¹⁴³

126 Akter, S., Williams, C., Talukder, A., Islam, M. N., Escallon, J. V., Sultana, T., Kapil, N., & Sarker, M. (2021). *Harmful practices prevail despite legal knowledge: a mixed-method study on the paradox of child marriage in Bangladesh*. *Sexual and reproductive health matters*, 29(2).

127 *Ibid.*

128 ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International.

129 Akter, S., Williams, C., Talukder, A., Islam, M. N., Escallon, J. V., Sultana, T., Kapil, N., & Sarker, M. (2021). *Harmful practices prevail despite legal knowledge: a mixed-method study on the paradox of child marriage in Bangladesh*. *Sexual and reproductive health matters*, 29(2).

130 Human Rights Watch. (2015). *Child Marriage: Bangladesh*. 12.

131 Centre for Reproductive Rights. (2018). *Ending Impunity for Child Marriage in Bangladesh: Normative and Implementation Gaps*. 8.

132 UNICEF. (2020). *Ending Child Marriage: A profile of progress in Bangladesh*.

133 Government of Bangladesh. (2016). *Bangladesh Country Report, 2016 – Combating Human Trafficking*. 61-62.

134 Akter, S., Williams, C., Talukder, A., Islam, M. N., Escallon, J. V., Sultana, T., Kapil, N., & Sarker, M. (2021). *Harmful practices prevail despite legal knowledge: a mixed-method study on the paradox of child marriage in Bangladesh*. *Sexual and reproductive health matters*, 29(2).

135 *Ibid.*

136 ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International. 6.

137 Akter, S., Williams, C., Talukder, A., Islam, M. N., Escallon, J. V., Sultana, T., Kapil, N., & Sarker, M. (2021). *Harmful practices prevail despite legal knowledge: a mixed-method study on the paradox of child marriage in Bangladesh*. *Sexual and reproductive health matters*, 29(2).

138 *Ibid.*

139 ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International. 3.

140 UNICEF. (2020). *Ending Child Marriage: A profile of progress in Bangladesh*.

141 *Ibid.*

142 Human Rights Watch. (2015). *Child Marriage: Bangladesh*. 22.

143 *Ibid.*

As mentioned in the introduction, Bangladesh's propensity to adverse weather and natural disasters may increase children's risk of child, early and forced marriage as economic hardships can motivate families to permit early marriages.^{144,145} Research conducted after cyclone Sidr in 2007 and cyclone Aila in 2009 showed that the rate of child marriages increased in the affected communities.^{146,147} This is reinforced by research conducted in coastal areas of Bangladesh that are particularly vulnerable to a range of extreme weather events and natural disasters, showing that prevalence of child marriages rose in these areas following climate related shocks.¹⁴⁸

In line with global trends, instances of child, early and forced marriage are thought to have increased within Bangladesh as a result of the COVID-19 pandemic. Research conducted by the Manusher Jonno Foundation, based on surveys, focus group discussions and interviews, identified 13,886 child marriages between April and October 2020 in the country.¹⁴⁹ 78% were initiated by the parents despite 96% of the total 20,575 respondents indicating that they did not agree with child marriage.¹⁵⁰ This finding confirms that while they may not agree in principle, caregivers may feel they have little choice. 30% of respondents described poverty as a push factor.¹⁵¹ In addition, loss of employment or business and the hope of paying lower dowries at that moment in time were mentioned as contributing factors.¹⁵² Additional research identified that school closures during the pandemic were indicated as resulting in increased child marriage.¹⁵³

Rohingya children located in Bangladesh are particularly vulnerable to child, early and forced

marriage.¹⁵⁴ Research based on 72 interviews with Rohingya children and young adults aged 14-24 (n=48) and programme managers working in Cox's Bazar refugee sites (n=24) and 12 focus groups of 10-12 participants with community leaders, Rohingya women and host community members, gives important insights into the practice within these communities.¹⁵⁵ While economic hardship and other push factors no doubt play a role, the study also found some cultural support for the practice was present. Respondents conveyed that child marriage was more easily practiced by the Rohingya in Bangladesh than it had been in Myanmar because of stronger state control in the latter and lower dowry costs in the former.¹⁵⁶ Similar to studies mentioned above, early marriage in Rohingya communities was also perceived as a way of alleviating financial burden on the family.¹⁵⁷ In addition, interpretations of Islam meant that families saw the onset of puberty as the ideal time for girls to marry.¹⁵⁸

A 2020 research study highlighted that 17% of surveyed Rohingya and host community married girls in Cox's Bazar had experienced gender based violence, in contrast with 4% of unmarried girls.¹⁵⁹ Whilst the total number of respondents was 2280, it is not clear how many were married. In addition, child marriage amongst the Rohingya community is linked to human trafficking. Fortify Rights identified in 2019 that Rohingya children are trafficked by crime syndicates to Malaysia in order to marry Rohingya men residing there.¹⁶⁰ Families saw this as a viable way to escape situations of abject poverty within the Bangladeshi refugee camps.¹⁶¹

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- 144 Asadullah, M, Islam, K, Wahhaj, Z. (2021) *Child marriage, climate vulnerability and natural disasters in coastal Bangladesh*. *Journal Of Biosocial Science*, Volume 53, Issue 6, 948 – 967.
- 145 Centre for Reproductive Rights. (2018). *Ending Impunity for Child Marriage in Bangladesh: Normative and Implementation Gaps*. 8.
- 146 International Center for Research on Women. (2013). *Child Marriage in South Asia: Realities, Responses and the Way Forward*, 6.
- 147 Human Rights Watch. (2015). *Marry before your house is swept away*.
- 148 Asadullah, M, Islam, K, Wahhaj, Z. (2021) *Child marriage, climate vulnerability and natural disasters in coastal Bangladesh*. *Journal Of Biosocial Science*, Volume 53, Issue 6, 948 – 967.
- 149 Manusher Jonno Foundation. (2021). *13,886 child marriages took place during lockdown last year*.
- 150 *Ibid*.
- 151 *Ibid*.
- 152 *Ibid*.
- 153 Tangina Afrin, Mohammad Zainuddin, (2021). *Spike in child marriage in Bangladesh during COVID-19: Determinants and interventions*, *Child Abuse & Neglect*, Volume 112.
- 154 Centre for Reproductive Rights. (2018). *Ending Impunity for Child Marriage in Bangladesh: Normative and Implementation Gaps*. 8.
- 155 Melnikas, A.J., Ainul, S., Ehsan, I. et al. (2020). *Child marriage practices among the Rohingya in Bangladesh*. *Conflict and Health* 14, 28.
- 156 *Ibid*.
- 157 *Ibid*.
- 158 *Ibid*.
- 159 Guglielmi, S., Jones, N., Muz, J., Baird, S., Mitu, K. and Ala Uddin, M. (2020) *'Age- and gender-based violence risks facing Rohingya and Bangladeshi adolescents in Cox's Bazar'* Policy Brief. London: Gender and Adolescence: Global Evidence.
- 160 Fortify Rights. (2019). *Malaysia: End Child Marriage, Protect Rohingya Refugee Girls*.
- 161 *Ibid*.

INTERNATIONAL, REGIONAL AND NATIONAL COMMITMENTS AND LEGISLATIVE FRAMEWORK

Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council		
International Instruments		Date of ratification/accession
Convention on the Rights of the Child - 1989		3 August 1990
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – 2000		6 September 2000
ILO Convention on the Worst Forms of Child Labour – 1999 (No. 182)		12 March 2001
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		12 September 2019
Regional Instruments		Date of ratification/accession
SAARC Convention on Preventing and Combatting Trafficking in Women		2002
SAARC Convention on Regional Arrangements for the Promotion of Child Welfare		2002
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	2012 (Report for the next reporting cycle overdue since 1 March 2021)	At the last review on 30 October 2015 CRC's key concluding observations related to the sexual exploitation of children were: <ul style="list-style-type: none"> Bangladesh should “refrain from taking any legislative measure likely to reduce the age of 18 as the minimum age of marriage, as well as prosecute violators who authorise the marriage of persons below 18”. “Prohibit and criminalise the involvement of children in prostitution and all forms of exploitation and take measures to prevent such exploitation”.¹⁶²
Committee on the Rights of the Child (OPSC review)	2005	

¹⁶² Committee on the Rights of the Child. (2015). *Concluding observations on the fifth periodic report of Bangladesh*. CRC/C/BGD/CO/5

Human Rights Bodies	Date of latest submitted report	Comments
Human Rights Council – Working Group on the Universal Periodic Review	2018 Bangladesh will next be up for review in the 44 th session in 2023.	Key observations of the working group included: <ul style="list-style-type: none"> • “Amend the Child Marriage restraint Act to maintain the legal minimum age at 18 years.” • “Step up measures to combat child prostitution and early marriage.” • “Continue efforts to combat trafficking in humans, particularly the exploitation of children”.¹⁶³

INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
United Nations Sustainable Development Goals	2015
Regional commitments	
Commitment	Start date
South Asia End Violence Against Children	2005

In terms of international cooperation and commitments, it is worth mentioning that Bangladesh submitted its latest Voluntary National Review on the implementation of the Sustainable Development Goals in 2020.¹⁶⁴ Whilst the report mentions progress towards goals 5.2 (Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation) and 5.3 (Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation) it does not provide concrete examples of any measures taken to achieve these goals.¹⁶⁵ In response to goal 16.2 (End abuse, exploitation, trafficking and all forms of violence against and torture of children) the report outlines the range

of legislative instruments that the government has enacted, as will be discussed in greater detail below. Further, they mention that a national plan of action was being drafted at the time of writing of the review, awareness raising programmes have been carried out and a national toll free reporting mechanism has been implemented.¹⁶⁶

At a regional level, Bangladesh is one of the member countries of the South Asia End Violence Against Children. This is an apex body of the South Asian Association for Regional Cooperation and functions as an inter-governmental body that works in five key thematic areas: child marriage, child abuse and exploitation, child labour, corporal punishment and trafficking.¹⁶⁷

¹⁶³ Human Rights Council. (2018). *Report of the Working Group on the Universal Periodic Review* Bangladesh*. A/HRC/39/12.

¹⁶⁴ Government of Bangladesh. (2020). *Voluntary National Review: Accelerated action and transformative pathways: realizing the decade of action and delivery for sustainable development*.

¹⁶⁵ *Ibid.*, 67.

¹⁶⁶ *Ibid.*, 137.

¹⁶⁷ South Asia End Violence Against Children (SAIEVAC). About us.

NATIONAL LEGISLATION

Bangladesh has enacted a number of laws that help protect children from sexual exploitation crimes. However, as will be analysed in the following sections, important weaknesses in the legislation persist and there remains work to be done in order to provide children with the necessary level of legal protection.

The Penal Code establishes the age of sexual consent at 14 by providing that when a man has sexual intercourse with a female under 14, irrespective of whether she provides 'consent', it will be considered rape.¹⁶⁸ Based on this definition, the concept applies only to girls, thereby not establishing a minimum legal age for sexual consent for boys within the Bangladeshi legislation. Therefore, this gendered definition of rape leaves boys without protection and vulnerable to sexual crimes. Although the Prevention of Oppression Against Women and Children Act 2000 refers to "rape with a woman or child" within its provisions,¹⁶⁹ it also states that rape shall follow the definition provided in the Penal Code offence.¹⁷⁰ Further, the explanation contained under the rape provision in the Prevention of Oppression Against Women and Children Act still refers to female victims only.¹⁷¹

Exploitation of children in prostitution

Whilst Bangladesh has enacted legislation with provisions aimed at protecting children from being exploited in prostitution, loopholes do persist and there remains room for improvement. First, it is worth mentioning that prostitution, including buying and selling sexual services, is not criminalised in Bangladesh, meaning that voluntarily offering sexual services should not be prosecutable. This was confirmed in a 2000 judgement by the High Court in which it emphasised that in the absence of a specific law criminalising prostitution, sex workers should continue to enjoy their constitutional rights and freedoms.¹⁷² While debates around the legalisation

of adult prostitution are a separate argument, it is important to highlight that adult prostitution, whether criminalised, decriminalised and/or regulated, can influence the exploitation of children in prostitution, which frequently occurs adjacent to adult prostitution - legal or otherwise.¹⁷³

The Prevention and Suppression of Human Trafficking Act, 2012 defines prostitution as "the sexual exploitation or abuse of any person for commercial purpose or for consideration in money or kind".¹⁷⁴ However, this definition refers to exploitation through prostitution in general and does not relate directly to children. In order to bring the legislation in line with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography it is necessary to adopt a definition that refers exclusively to children and explicitly covers the use of children for sexual purposes for any form of consideration, including the mere promise of remuneration. Properly defining the exploitation of children in prostitution is vitally important in protecting children from being prosecuted as offenders and in raising awareness of the offence and the harm it may cause.

There are a number of offences related to prostitution under the Bangladeshi legislation. Under the Prevention and Suppression of Human Trafficking Act, 2012, it is prohibited to keep, manage, assist or actively participate in the managing or keeping of a brothel.¹⁷⁵ The penalty for this offence amounts to between three and five years imprisonment and a fine and will apply to any tenant or occupier using the property as a brothel or any owner or lessor who has let the property knowing it will be used as a brothel.¹⁷⁶ The Act defines a brothel as "any house, place or structure used for the purpose of prostitution".¹⁷⁷ However, despite these provisions, as discussed in section 2.1, the operation of certain brothels is tolerated as long as the sex workers sign an affidavit stating their willingness to work there.^{178,179} Further, the same Act makes it an offence to solicit for the purpose of prostitution in any street or public place or from

168 Government of Bangladesh. (1860). *Penal Code. Article 375.*

169 Government of Bangladesh. (2000). *Prevention of Oppression Against Women and Children Act. Article 9.*

170 *Ibid.*, Article 2(e).

171 *Ibid.*, Article 9.

172 Bangladesh High Court Division. (2000). *Bangladesh Society for the Enforcement of Human Rights (BSEHR) and Ors Vs. Government of Bangladesh and Ors.*

173 ECPAT International. (2020). *Summary Paper on Sexual Exploitation of Children in Prostitution.* Bangkok: ECPAT International.

174 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act. Article 2 (8).*

175 *Ibid.* Article 12.

176 *Ibid.*

177 *Ibid.*, Article 2 (9).

178 Bangladesh High Court Division. (2000). *Bangladesh Society for the Enforcement of Human Rights (BSEHR) and Ors Vs. Government of Bangladesh and Ors.*

179 Global Network of Sex Work Projects. (n,d). *Bangladesh.*

within any house or building.¹⁸⁰ The penalty for this offence amounts to up to three years imprisonment, a fine or both.¹⁸¹

The legislation in Bangladesh also contains offences that offer protection to children from being exploited in prostitution. The Penal Code criminalises the procurement of minor girls, making it an offence to induce any girl under 18 to go anywhere or do anything, or knowing it is likely that, she will be forced or seduced to illicit intercourse with another person.¹⁸² The penalty for this crime is up to 10 years imprisonment and a fine.¹⁸³ However, this offence only covers girls under 18, thereby leaving boys without legal protection for the same crime. In addition, it is prohibited to sell, let to hire or otherwise dispose of any child under 18 with intent that they be employed or used for the purpose of prostitution.¹⁸⁴ Further, buying, hiring or otherwise obtaining possession of a child under 18 for the purpose of prostitution is also prohibited.¹⁸⁵ Both of these offences carry the same punishment of up to 10 years imprisonment and a fine.¹⁸⁶ Both also contain an additional explanation that when the offender is a prostitute or owner of a brothel it will be assumed, unless otherwise proved, that the prohibited conducts were carried out for the purpose of prostitution.¹⁸⁷ However, whilst the two offences refer to any person under the age of 18, these additional explanations refer only to female children under 18.¹⁸⁸ For the avoidance of any doubt, these provisions should be amended to remove any gendered aspects and provide clarity that they apply equally to boys and girls under 18. As discussed in section 2.1, instances of boys being exploited in prostitution have been reported and therefore it is of vital importance that the law provides equal protection to all children, irrespective of gender.

In addition to the above, the Children's Act 2013 makes it an offence to allow a child to reside in or go to a brothel, with punishment of up to two years imprisonment, a fine or both.¹⁸⁹ It is also an offence for any person in charge of a child to lead the child to seduction or induce the child to prostitution.¹⁹⁰ This offence is punishable with up to five years

imprisonment, a fine or both.¹⁹¹ Any person who allows a child to live with, enter into or continue in the employment of a prostitute or someone with immoral character will be deemed to have encouraged the prostitution of the child.¹⁹² Given noted occurrences of children in Bangladesh who are born and raised in brothel villages before being sexually exploited (as discussed in section 2.1), these provisions are of particular importance.

Online child sexual exploitation

Bangladesh has enacted provisions that offer children some protection from being sexually exploited online. However, work remains to be done to ensure that children are offered legal protection from all crimes of online child sexual exploitation that are contained under international instruments. The majority of relevant provisions relevant are contained under the Anti-Pornography Act, 2012.

The Act does not contain a definition of child sexual abuse materials. Rather, a general definition of pornography is set forth as "sexual/vulgar dialogue, acting, gestures, naked or half-naked dance that is captured by moving pictures, video film, audio-visual medium, still pictures, graphics or other means that has no cultural or educational value and intended to cause sexual arousal" and "sexual/vulgar books, magazines, sculptures, statues, representations, cartoons or leaflets intended to cause sexual arousal".¹⁹³ It is welcome that this definition covers audio and written material. The inclusion of "other means" creates broad room for interpretation for what could be covered. However, as stated, this definition refers to pornography in general and while it could be used to prosecute for child sexual abuse material, children are not specifically mentioned. In order to reflect the seriousness of recording child sexual abuse, the legislation should be updated to specifically define child sexual abuse material in line with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and other relevant international standards.

¹⁸⁰ *Ibid.*, Article 13.

¹⁸¹ *Ibid.*

¹⁸² Government of Bangladesh. (1860). *Penal Code*. Article 366A.

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*, Article 372.

¹⁸⁵ *Ibid.*, Article 373.

¹⁸⁶ *Ibid.*, Articles 372-373.

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*

¹⁸⁹ Government of Bangladesh. (2013). *Children's Act*. Article 77.

¹⁹⁰ *Ibid.*, Article 78.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ Government of Bangladesh. (2012). *Anti-Pornography Act*. Article 2(c).

The Anti-Pornography Act contains offences specifically criminalising conduct relating to child sexual abuse material. It is prohibited to produce, distribute, print and publish, sell, supply, advertise or display child sexual abuse materials.¹⁹⁴ The penalty for such crimes is set at up to 10 years imprisonment and a fine.¹⁹⁵ In addition, contracting or forcing a child to participate in the production of child sexual abuse material is punishable with up to seven years imprisonment and a fine.¹⁹⁶ Notably, the punishment is the same when these crimes are committed against adults, undermining the gravity of online sexual exploitation of children.

The Act also contains offences relating to online transmission of pornography in general that could be used to prosecute online child sexual abuse material crimes. It is prohibited to “provide pornography through the Internet or website or mobile phone or any other electronic device”.¹⁹⁷ Further, additional conducts criminalised include carrying, marketing, purchasing, owning, renting, transporting or storing pornography.¹⁹⁸ As discussed, the severity of these crimes against children should be reflected by including such conducts under the provision specific to children, with sufficiently stringent penalties that reflect the gravity of the offence. Further, conducts such as accessing, downloading and viewing child sexual abuse material are not prohibited under the Bangladeshi legislation. Whilst not specific to pornography in general or to child sexual abuse material, the Penal Code also criminalises a range of conducts relating to “obscene objects”.¹⁹⁹ However, given that “obscene objects” are not defined this provision is vague and leaves room for judicial interpretation on whether child sexual abuse material would be covered or not. Furthermore, given the associated penalties are set at 3 months’ imprisonment, a fine or both, it is preferable that crimes relating to child sexual abuse material are prosecuted under the Anti-Pornography Act rather than under this vague clause.

Turning attention to other online child sexual exploitation crimes, the Anti-Pornography Act punishes harming the social or personal dignity of a person, extorting money or mentally abusing a person via possession of pornographic materials

with up to seven years imprisonment and a fine.²⁰⁰ Given indications from Save the Children that girls in Bangladesh may be vulnerable to sexual extortion crimes²⁰¹ (as discussed in section 2.2), these provisions are welcome. However, in a similar vein to the above, the legislation could be improved by creating a separate offence relating specifically to the sexual extortion of children in the online environment.

The Bangladeshi legal framework contains no provisions relating to any form of grooming, including via technology or in online settings. This could potentially allow offenders to act with impunity and leaves children exposed to increased risk in the online environment. It is vitally important that Bangladesh criminalises the intentional proposal to meet a child for sexual purposes, including when the sexual abuse has not occurred in person but online. This would help to bring the legislation not only in line with the online grooming offence set out in the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse,²⁰² but also with the subsequent guidance issued by the Lanzarote Committee that stated that grooming offences should also cover instances in which the sexual abuse has occurred online.²⁰³

There are no explicit provisions in the Bangladeshi legal framework that criminalise the live streaming of child sexual abuse. Given the rapid advancement of technology, it is vitally important that the legislation be updated to capture forms of online child sexual exploitation other than child sexual abuse material.

Another oversight of the legislation is the lack of a clause which excludes a child’s criminal liability for producing and sharing self-generated sexual content, especially when compelled to do so because they are in an abusive or exploitative situation.

Lastly, there are no obligations for Internet service providers in Bangladesh to report, filter or block child sexual abuse materials encountered on their servers. Moreover, under the Information and Communication Technology Act 2006, Internet

194 *Ibid.* Article 8(6).

195 *Ibid.*

196 *Ibid.*, Article 8(1).

197 *Ibid.*, Article 8(3).

198 *Ibid.*, Article 8(5).

199 Government of Bangladesh. (1860). *Penal Code*. Article 292.

200 Government of Bangladesh. (2012). *Anti-Pornography Act*. Article 8 (2).

201 Save the Children. (2020). *Status Report: Violence Against Children in Bangladesh*. 4.

202 Council of Europe. (2007). *The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse*. Article 23.

203 Lanzarote Committee. (2015). *Opinion on Article 23 of the Lanzarote Convention and its explanatory note*.

service providers are exempt from liability from offences committed using their servers, as long as the offence was committed without their knowledge or if they had exercised due diligence to prevent its commission.²⁰⁴ In 2020, a new guideline issued by the Bangladesh Telecommunication Regulatory Commission made it mandatory for Internet service providers to offer a parental control tool to block harmful content.²⁰⁵ However, this would have to be used at the initiative of parents, with Internet service providers not required to block such content unless requested by service users.²⁰⁶

Sale and trafficking of children for sexual purposes

With the enactment of the Prevention and Suppression of Human Trafficking Act in 2012, Bangladesh improved the level of legal protection afforded to children for such crimes. Under this Act, it is prohibited to sell, buy, recruit, receive, deport, transfer, send, confine or harbour a person for the purpose of sexual exploitation.²⁰⁷ Importantly, for crimes involving children it is not required for any of the means of trafficking, i.e. “deception, threat, force,” etc., to be proven in order for an offence to be committed,²⁰⁸ thereby ensuring that the provision is in compliance with the UN Trafficking Protocol. For the purposes of the Act, exploitation is defined as including, among other things, “exploitation or oppression of any person through prostitution or sexual exploitation”.²⁰⁹ Penalty for the commission of human trafficking crimes is set at between five years and a life imprisonment and a fine.²¹⁰ However, the legislation does not explicitly state that there are different sentencing requirements for offences against children.

Another important component of this law is that it states that these conducts are prohibited “either inside or outside of the territory of Bangladesh”.²¹¹

Although trafficking is often associated with being an international, cross border crime, it has been misconstrued that movement is a necessary component of the offence.²¹² Therefore, this recognition of domestic trafficking is a positive inclusion within the legislation. Given the evidence presented in section 2.3 that suggests that children are trafficked domestically within Bangladesh, this inclusion is of particular importance.

Any person instigating, conspiring or attempting to commit a trafficking offence will also be punished with between three and seven years imprisonment and a fine.²¹³ In addition to the offences above, the punishment of seven years imprisonment to the death penalty is set for members of organised groups committing human trafficking offences.²¹⁴ Although praiseworthy for its alignment with international standards in protecting children from trafficking crimes, it should be noted here that the Act’s inclusion of the death penalty is a shortcoming.

The Prevention and Suppression of Human Trafficking Act also makes it an offence to use force, fraud or seduction to import a person into or transfer them within Bangladesh for the purposes of prostitution or sexual exploitation.²¹⁵ This provision applies to all victims and does not include penalties specific to offences against children. Further, it is an offence to kidnap, steal or confine with intent any person for the purpose of committing a human trafficking crime.²¹⁶ Whilst this crime contains higher punishments for offences committed against newborn babies,²¹⁷ there are no additional penalty requirements for other children.

The Bangladeshi Penal Code also contains a number of offences relevant to human trafficking. Namely, it is an offence to transfer any girls under the age of 21 to Bangladesh with the intent, or knowing that, she will be forced or seduced to illicit intercourse with another person.²¹⁸ Unfortunately, this provision

204 Government of Bangladesh. (2006). *ICT Act*. Article 79.

205 Government of Bangladesh. (2020). *Regulatory and Licensing Guidelines for Internet Service Providers in Bangladesh*. Article 34.

206 *Ibid.*

207 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 3.

208 *Ibid.*, Article 3 (2).

209 *Ibid.*, Article 2 (15).

210 *Ibid.*, Article 6.

211 *Ibid.*, Article 3.

212 ECPAT International. (2020). *Summary Paper Sale and Trafficking of Children for Sexual Purposes*, Bangkok: ECPAT International.

213 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act* Article 8.

214 *Ibid.*, Article 7.

215 *Ibid.*, Article 11.

216 *Ibid.*, Article 10.

217 *Ibid.*

218 Government of Bangladesh. (1860). *Penal Code*. Article 366B.

applies only to females under 21 and so does not offer any protection to male victims. In regard to the sale of children, under the Penal Code it is illegal to sell, let for hire or dispose of children for the purposes of prostitution, illicit intercourse or any other unlawful and immoral purpose.²¹⁹ Here, illicit intercourse means sexual intercourse between persons who are not married to each other, whether under law or custom.²²⁰ This creates a loophole in the provision as selling a married child may not be considered criminal as it would not be covered under the definition of illicit intercourse. Although selling is a prohibited conduct under the trafficking legislation, it is welcome that it is also considered as a separate offence under the Penal Code. The trafficking and sale of children are two separate crimes and, in order to aid prosecution and victim identification efforts, should always be treated as such in law.²²¹

Sexual exploitation of children in travel and tourism

There are no provisions under the Bangladeshi criminal legislation that contain offences specifically addressing the sexual exploitation of children in travel and tourism. Therefore, the organisation of travel arrangements or transportations that are explicitly or implicitly meant to create or facilitate opportunities to engage children in sexual activities is not criminalised in Bangladesh. Further, there are no provisions that regulate the use of volunteers that work in roles with direct contact with children and companies that operate within the travel and tourism industry are not required by law to adhere to specific national codes for child protection.

However, there are some laws and regulations which may offer some level of protection to children from offences committed within this context. First, the Prevention and Suppression of Human Trafficking

Act defines “person” as “a natural person including any company, firm or associated or group of persons, whether incorporated or not”.²²² Further, it provides that when a trafficking offence is committed by a company or firm, whoever were the directors, proprietors, secretaries, managers or agents at that time will be deemed to have committed the offence.²²³ Therefore, tourism operators could be held liable for offences committed under this Act. Furthermore, the Penal Code contains a similar definition of person.²²⁴

Additionally, in 2021 the Bangladesh Tour Operators and Tour Guides (Registration and Operation) Act was passed.²²⁵ Although in the course of this research it was not possible to access the legislation, media reported that under the Act, there is a ban on all unlicensed tour operators, with all those remaining unregistered required to do so within 6 months of the legislation’s enactment.²²⁶ Further, anyone who has previously been penalised under criminal law is prevented from becoming a tour operator. However, this limitation expires two years after the penalisation.²²⁷ Lastly, the license to act as a tourism operator can be revoked if the person holding the registration is penalised under criminal law.²²⁸

Child, early and forced marriages

Under the Child Marriage Restraint Act, 2017, child marriages are illegal, with the Act defining male children as anyone under 21 and female children as under 18.²²⁹ Therefore, the legal age of marriage is set at 18 for girls and 21 for boys. It should be noted here that it is always preferable that boys and girls are treated equally and without distinction. In addition, an exemption clause exists whereby a child may marry under “special circumstances as may be prescribed by rules in the best interests of the minor, at the directions of the court and with consent

219 *Ibid.*, Article 372.

220 *Ibid.*

221 ECPAT International. (2020). *Summary Paper Sale and Trafficking of Children for Sexual Purposes*, Bangkok: ECPAT International.

222 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 2 (13).

223 *Ibid.*, Article 44.

224 Government of Bangladesh. (1860). *Penal Code*. Article 11.

225 The Daily Star. (2021) *Evaluating the Bangladesh Tour Operators and Tour Guides Act*

226 *Ibid.*

227 *Ibid.*

228 *Ibid.*

229 Government of Bangladesh. (2017). *Child Marriage Restraint Act*. Article 2.

of the parents or the guardian of the minor”.²³⁰ However, there is no indication as to what these special circumstances may be, or when such a marriage could be considered in the best interests of the child. Furthermore, Human Rights Watch noted in a 2020 report that laws under the Child Marriage Restraint Act were rarely enforced.²³¹ Legally permitting children to be married increases their vulnerability to being sexually exploited. As an example, married children may not qualify for the same protections as unmarried children from the offence of being sold under the Penal Code (as discussed in section 3.3).²³²

The Act also makes it an offence for any adult to marry a child, with punishment set at up to two years imprisonment, a fine or both.²³³ In addition, it is an offence for a parent or guardian to carry out “any act to promote the marriage or permit it to be solemnized, or negligently fails to prevent it from being solemnized.”²³⁴ The penalty for such offences amounts to between six months and two years imprisonment, a fine or both. However, despite this provision, research conducted by the Manusher Jonno Foundation, as discussed in section 2.5, indicated that 78% of the identified 13,886 child marriages between April and October 2020 were initiated by parents.²³⁵

Unfortunately, the Act also prescribes penalties of 1 month of imprisonment, a fine or both for children who have married.²³⁶ This penalty will not apply in cases in which a parent or guardian has been involved.²³⁷ Under no circumstances should children involved in marriages be prosecuted as offenders, but rather be treated as victims.

It is an offence punishable with between six months and two years imprisonment, a fine or both for any person to solemnise or conduct a child marriage.²³⁸ Furthermore, the same punishment is set for

marriage registrars who register a child marriage, alongside the cancellation of their license.²³⁹ Here, “marriage registrar” covers those from a variety of faiths, including Muslim, Hindu and Christian.²⁴⁰ However, despite this provision, the research conducted by the Manusher Jonno Foundation found that 4866 of the identified 13,866 child marriages were registered by a marriage registrar.²⁴¹

In addition to the above, the practice of dowry is prohibited under the Dowry Prohibition Act, 2018, under which offences are outlined for demanding, giving or accepting dowry.²⁴² The penalty for these offences is set at between one and five years imprisonment, a fine or both.²⁴³

A major drawback of the Bangladeshi criminal legislation can be identified within the provisions on rape, set out in the Penal Code. Here, it is established that rape within marriage will not be punishable, provided that the wife is over 13 years old.²⁴⁴ Therefore, this would allow impunity in cases in which girls between 13-18 who are married with the consent of their parents are raped by their spouse. Given the large number of children involved in child marriages within the country, this leaves many children vulnerable to sexual violence and should be amended as a matter of urgency.

Lastly, it is worth mentioning that in the research carried out by the Manusher Jonno Foundation, in 78% of the cases of child marriage the people involved were aware that the practice was illegal and of the minimum legal age for marriage.²⁴⁵ Additionally, a 2021 research study found that 98% of 4433 respondents were aware that child marriage was illegal.²⁴⁶ Given that a requirement to be included in the sample of the latter study was to own a functioning mobile phone and TV,²⁴⁷ it is unlikely that it can be considered representative of the whole population. However, through a combined

230 *Ibid.*, Article 19.

231 Human Rights Watch. (2020). *“I Sleep in My Own Deathbed” Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

232 Government of Bangladesh. (1860). *Penal Code*. Article 372.

233 *Ibid.*, Article 7.

234 *Ibid.*, Article 8.

235 Manusher Jonno Foundation. (2021). *13,886 child marriages took place during lockdown last year*.

236 Government of Bangladesh. (2017). *Child Marriage Restraint Act*. Article 7.

237 *Ibid.*

238 *Ibid.*, Article 9.

239 *Ibid.*, Article 11.

240 *Ibid.*

241 Manusher Jonno Foundation. (2021). *13,886 child marriages took place during lockdown last year*.

242 Government of Bangladesh. (2018). *Dowry Prohibition Act*. Articles 3-4.

243 *Ibid.*

244 Government of Bangladesh. (1860). *Penal Code*. Article 375.

245 Manusher Jonno Foundation. (2021). *13,886 child marriages took place during lockdown last year*.

246 Akter, S., Williams, C., Talukder, A., Islam, M. N., Escallon, J. V., Sultana, T., Kapil, N., & Sarker, M. (2021). *Harmful practices prevail despite legal knowledge: a mixed-method study on the paradox of child marriage in Bangladesh*. *Sexual and reproductive health matters*, 29(2).

247 *Ibid.*

reading of these two studies it is evident that, whilst important, strong legislation is only a starting point and that further preventative efforts must be made alongside strategies to address the root causes of child marriage.

Extraterritorial jurisdiction and extradition law

A number of acts relevant to sexual exploitation within the Bangladeshi legal framework provide for extraterritorial application. First, according to the Penal Code,²⁴⁸ Bangladesh can prosecute illegal conduct (including sexual exploitation of children crimes) by its own citizens that has been carried out abroad. This application of active extraterritorial jurisdiction can be a useful deterrence tool. Laws influence social norms and define ‘acceptable behaviour’ in any society. Including comprehensive active extraterritorial legislation sends a clear message that countries will not let their citizens take a ‘holiday’ from their legal systems and that sexual exploitation of children is unacceptable, no matter where it happens.²⁴⁹ However, the Penal Code does not punish those offences committed by foreign nationals abroad against a victim who is a Bangladeshi national.

The Prevention and Suppression of Human Trafficking Act also contains provisions that set out its extraterritorial jurisdiction. Any offence contained under the Act that is committed against a Bangladeshi victim abroad will still be punishable.²⁵⁰ The fact that the trafficking offence covers conducts “within and outside the territory of Bangladesh”²⁵¹ means that Bangladesh can prosecute trafficking crimes committed by its citizens abroad.

The Anti-Pornography Act does not provide for extraterritorial jurisdiction. It is particularly important to establish extraterritorial reach for

online sexual exploitation crimes.²⁵² Such crimes may pose a challenge to national jurisdiction by making it more difficult to establish a link between the online conduct and the territory of one State.

Ensuring extraterritorial application would therefore enable States to assert their jurisdiction over crimes of sexual exploitation of children committed by their nationals/habitual residents using the Internet, irrespective of where the offence or its consequences took place.²⁵³

It is praiseworthy that the extraterritorial jurisdiction applied under Bangladeshi law does not require for the conduct to be a crime in the prosecuting State as well as in the State in which it was committed (known as double criminality requirement).

Extradition in Bangladesh is governed by the Extradition Act, 1974. It provides that Bangladesh may extradite offenders to States with which it has an extradition treaty,²⁵⁴ and also those with which it does not.²⁵⁵ In regard to the latter, the Act provides that extradition will be granted to non-treaty States when the government sees it as expedient.²⁵⁶ This wording is quite vague and no further details are provided as to when the government would consider it expedient to extradite an offender. An “extradition offence” covers any offence that would be prohibited if it was carried out within Bangladesh,²⁵⁷ thereby covering all sexual exploitation of children offences contained in the Bangladeshi legislation. The Prevention and Suppression of Human Trafficking Act also explicitly states that all offences contained within are deemed extraditable offences.²⁵⁸ Lastly, it is a positive that there is no double criminality requirement for extradition proceedings, meaning the offence only has to be considered a crime in Bangladesh and not in the requesting State.

248 Government of Bangladesh. (1860). *Penal Code*. Article 4.

249 ECPAT International. (2022). *Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children*. ECPAT International.

250 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 5.

251 *Ibid.*, Article 3.

252 ECPAT International. (2022). *Extraterritorial Jurisdiction and Extradition Legislation as Tools to Fight the Sexual Exploitation of Children*. ECPAT International.

253 *Ibid.*

254 Government of Bangladesh. (1974). *Extradition Act*. Article 3.

255 *Ibid.*, Article 4.

256 *Ibid.*

257 *Ibid.*, Article 2 (1)(a).

258 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 4(4).

NATIONAL RESPONSE TO THE SEXUAL EXPLOITATION OF CHILDREN

COORDINATION AND COOPERATION

In Bangladesh, the main government ministry responsible for coordinating the country's response to the sexual exploitation of children is the Ministry of Women and Children Affairs. Various institutional mechanisms and policies have been formulated under this ministry in attempts to address sexual exploitation. First, the National Children Policy has been in operation from 2011 until the present day and commits to protecting children from violence, child marriage, trafficking and exploitation in prostitution.²⁵⁹ In addition, a number of national plans of action have been formulated by the Ministry of Women and Children Affairs that contain objectives relevant to addressing sexual exploitation of children within the country.

Although not specifically aimed at addressing sexual exploitation of children, the National Action Plan to Prevent Violence Against Women and Children 2013-2025 includes sexual violence, human trafficking and child marriage in the types of violence against women and children that are covered.²⁶⁰ The plan includes specific awareness raising programmes for the prevention of child trafficking and child marriage, as well as foreseeing the creation of the Multi-Sectoral Programme on Violence Against Women which oversees mechanisms such as the One Stop Crisis Centres, national helpline and shelter facilities,²⁶¹ all of which are important mechanisms for child victims of sexual exploitation to access. The National Action Plan also sets out objectives for improving regional and international cooperation against trafficking and improving the institutional response to addressing child marriage.²⁶² However, there are no specific policies or objectives relating to online sexual exploitation of children, exploitation of children in prostitution or sexual exploitation of children in the context of travel and tourism. Further, monitoring and

evaluation of plan objectives was not apparent during this research, making it very difficult to assess its implementation and impact.

Regarding child, early and forced marriage, the Ministry of Women and Children Affairs developed the National Action Plan to End Child Marriage 2018-2030, with an ultimate objective of ending child marriage in Bangladesh by 2041.²⁶³ Notable goals of the plan include conducting awareness raising activities, implementing laws against the crime, engaging communities to foster positive social values and promoting a robust social protection system for children.²⁶⁴ With specific relevance to sexual exploitation, notable strategies include taking action to prevent sexual harassment and child marriage during natural disasters²⁶⁵ and formulating specific policies to end sexual harassment and crimes relating to child sexual abuse material online.²⁶⁶ However, despite the plan providing for a monitoring and evaluation system, the lack of publicly available information makes it very difficult to assess progress towards these objectives. As discussed in section 3.5, weak enforcement of the Child Marriage Restraint Act suggests that progress towards effective implementation of laws is lacking.

Despite the existence of these plans, a 2020 report by the Research and Policy Integration for Development Society and UNICEF highlighted that the effective protection of children's rights may be hampered by the centralised governance structure within Bangladesh.²⁶⁷ Although the Ministry of Women and Children Affairs is tasked with being the coordinating body for children's issues, the local government institutions responsible for the implementation of policies and plans have not been sufficiently supported to deliver

²⁵⁹ Government of Bangladesh. (2011). *National Children Policy*. 11.

²⁶⁰ Government of Bangladesh. (2013). *National Action Plan to Prevent Violence Against Women and Children 2013-2025*.

²⁶¹ *Ibid.*

²⁶² *Ibid.*

²⁶³ Government of Bangladesh. (2018). *National Action Plan to End Child Marriage 2018-2030*.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*

²⁶⁶ *Ibid.*

²⁶⁷ RAPID & UNICEF. (2020). *Policy Brief: The Situation of Children in Bangladesh*. 7.

results.²⁶⁸ In addition, a 2020 Human Rights Watch report on violence against women and girls and information provided by Association for Community Development highlighted a gap between what is included in national plans and what is implemented in practice.^{269,270} Specifically regarding the National Action Plan to Prevent Violence Against Women and Children, the report noted gaps in enforcement, coordination and awareness as limiting factors.²⁷¹ In regard to funding, World Vision highlighted in a 2019 report that whilst an overall budget for children was provided, the government did not provide a specific budget for national plans of action.²⁷²

Given the vulnerabilities of children in Cox's Bazar to a range of sexual exploitation crimes, as discussed throughout section 2, it is welcome that a strategy focusing specifically on this area has been developed in 2021 by the Child Protection Sub Sector, a group of partner organisations that includes the Ministry of Women and Child Affairs, UNICEF, local and international non-governmental organisations.²⁷³ The Child Protection Sub Sector Strategy lists child trafficking and child marriage as important risks, however its objectives emphasise strengthening child protection systems, supporting child victims' access to justice and improving case management to effectively link children to required services rather than specific activities related to these two risk factors.²⁷⁴ Moreover, given the plan is in early stages, there are no evaluations of impact as yet.

In addition to the policies developed by the Ministry of Women and Children Affairs, Bangladesh enacted the National Plan of Action for Prevention and Suppression of Human Trafficking 2018-2022 under the direction of the Ministry of Home Affairs. The Plan contains 5 key objectives: prevention measures, protection of victims, justice for victims, establishing multi stakeholder partnerships to combat trafficking and an effective system of monitoring and evaluation on progress.²⁷⁵ Whilst these objectives all refer to trafficking in general, each contains expected outputs that relate specifically to children.²⁷⁶ In regard to monitoring

and evaluation, the government releases an annual trafficking country report that comprehensively details all actions taken to address trafficking in each district of Bangladesh. The most recent report detailing progress in 2021 had not been released as of August 2022 so evidence of progress from 2019-2021 is unavailable. Bangladesh has established Community Based Child Protection Committees at local government level. They engage in awareness-raising activities of various forms of sexual exploitation within the community, refer victims to services and report alleged crimes to police.²⁷⁷ Although the aim is for these committees to be established throughout all districts of the country, this comprehensive geographical implementation has not yet been achieved.²⁷⁸

While evidence of coordination and collaboration regarding the sexual exploitation of children led by government is noted, there is currently a stronger focus on child trafficking and child, early and forced marriage with little targeted action specifically addressing exploitation of children in prostitution, online sexual exploitation of children and sexual exploitation of children in travel and tourism. Further, it is vital that all the activities detailed in government policies and plans are assigned budget for their successful implementation. Finally, in order to ensure transparency and assess progress towards objectives the government should carry out, and make public, robust monitoring and evaluation of the impact of planned activities.

Prevention measures, awareness-raising and education

The Government of Bangladesh, in cooperation with local and international non-governmental organisations, has implemented actions to raise awareness of sexual exploitation of children. Though as noted in the previous section, activities focus strongly on the issues of trafficking and child, early and forced marriage. In regard to child, early and forced marriage, in 2017 the government launched a national multimedia campaign aimed at challenging

²⁶⁸ *Ibid.*

²⁶⁹ Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support.*

²⁷⁰ Association for Community Development. (2022). Personal Communication.

²⁷¹ *Ibid.*

²⁷² World Vision. (2019). *BANGLADESH Policy Progress to End Violence against Children. 7.*

²⁷³ Cox's Bazar Child Protection Sub Sector. (2021). *Child Protection Sub Sector Strategy.*

²⁷⁴ *Ibid.*

²⁷⁵ Government of Bangladesh. (2018). National Plan of Action for Prevention and Suppression of Human Trafficking. 6-7.

²⁷⁶ *Ibid.*

²⁷⁷ Association for Community Development. (2022). Personal Communication.

²⁷⁸ *Ibid.*

existing social norms and increasing public intolerance to the problem.²⁷⁹ The campaign utilised television, radio, social media, billboards and live launch events to help raise awareness.²⁸⁰ In addition, in completing its reporting requirements under the International Covenant for Civil and Political Rights, the government reported that as of 2020, 4883 adolescent clubs had been established.²⁸¹ Each club contains around 20 girls and 10 boys aged 11-17 and meets twice a week to discuss issues such as child marriage, dowry, violence against women and children and trafficking.²⁸² In 2021, the government cooperated with USAID to launch a new “Actions to Prevent Child Marriage in Bangladesh” campaign that seeks to raise awareness on the harms of child marriage, the current law, reporting mechanisms and victim support services.²⁸³ The campaign aims to collect 1 million pledges against child marriage from adolescents, civil society, parents, community leaders and policy makers.²⁸⁴ Given the project only began in July 2021, progress towards its objectives remain unclear. Effective awareness raising of the harmful effects of child marriage is of vital importance in challenging social and cultural norms to reduce instances of the practice and therefore, by extension, reduce children’s vulnerability to sexual exploitation.²⁸⁵

Similar to child marriage prevention, the government also implements awareness raising activities relating to trafficking through mass media such as television, radio and text messages.²⁸⁶ In particular, Counter Trafficking Committees established throughout the country conduct awareness raising activities at community level.²⁸⁷ However, these committees have not been established in all areas of the country so these awareness raising activities have limited geographical reach.²⁸⁸

Private sector and international organisations also play an important role in carrying out awareness raising related to sexual exploitation of children. For example, Winrock International implemented a project between 2014-2021 that provided 4034 people at risk of trafficking with information, skills training and livelihood support.²⁸⁹ The project equipped multiple groups, including students, with methods and information that help to identify trafficking incidents and traffickers.²⁹⁰ In addition, the project implemented protection activities that connected victims of trafficking with necessary support services.²⁹¹ However, this project was directed at trafficking in general and not specifically related to children. In addition, the International Organisation of Migration reported in November 2021 that they had provided training on risk mitigation of sexual exploitation to 1136 community leaders, volunteers and humanitarian workers in Cox’s Bazar.²⁹² Further, 1031 boys and 802 girls were involved in small group sessions that included information on counter trafficking.²⁹³

In regard to online sexual exploitation of children, awareness raising and prevention activities are largely left to civil society. In particular, Ain o Salish Kendra and Association for Community Development formed part of the Girls Advocacy Alliance that developed a handbook on safe Internet use that covers topics including types of online sexual exploitation, offenders and methods of exploitation. It also included actions that could be used to safeguard children online.²⁹⁴ Between 2016-2020, twenty meetings with parents and ninety workshops with children on how to remain safe online were held.²⁹⁵ Further, successful advocacy efforts were conducted by Ain o Salish Kendra that resulted in government approval for aspects of the handbook to be included in the national curriculum from 2022.²⁹⁶ As of August 2022 the handbook has yet to be implemented.²⁹⁷

279 UNICEF. (n,d). *National Multimedia Campaign For Ending Child Marriage*.

280 *Ibid.*

281 Human Rights Committee. (2020). *Concluding Observations on the Initial Report of Bangladesh*. CCPR/C/BGD/CO/1/Add.1

282 *Ibid.*

283 USAID. (2021). *USAID Launches Campaign to Prevent Child Marriage In Bangladesh*.

284 *Ibid.*

285 ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International.

286 US Department of State. (2022). *Trafficking in Persons Report*. 114.

287 Association for Community Development. (2022). *Personal Communication*

288 *Ibid.*

289 Winrock International. (2021). *Think Global, Act Local: Combating Human Trafficking in Bangladesh*.

290 *Ibid.*

291 *Ibid.*

292 IOM. (2021). *Rohingya Humanitarian Crisis Response: Monthly Situation Report*.

293 *Ibid.*

294 Girls Advocacy Alliance. (2020). *GAA Success Story Booklet*.

295 *Ibid.*

296 *Ibid.*

297 Association for Community Development. (2022). *Personal Communication*

CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

National complaint mechanisms

Under the Children Act, there is a duty for any person who has reason to believe a child has been a victim of any criminal offence to report to a Child Affairs Police Officer, Probation Officer or Social Worker. This would certainly include crimes of sexual exploitation.²⁹⁸ Upon being contacted, it is the duty of these officials to take the necessary measures to ensure the safety of the child, and to conduct all interviews within a child friendly environment.²⁹⁹ The same Act provides for the establishment, in every police station, of Child Affairs desks,³⁰⁰ tasked with attending to all cases involving children and to organise immediate support to any child arriving at a police station.³⁰¹ However, a 2020 report by the Research and Policy Integration for Development Society and UNICEF emphasised that the recruitment of Child Affairs Police Officers and Probation Officers was insufficient to ensure adequate protection of children.³⁰² Further, the report noted a lack of cooperation between these officers in providing protection for child victims.³⁰³ The lack of adequate functionality was further backed up by information from Bangladesh non-governmental organisation Association for Community Development, stating that even when Child Affairs Desks had been established they did not have the required staff assigned.³⁰⁴ Further, anecdotal evidence suggests that children reporting sexual exploitation crimes are forced to retell their

account multiple times to different people, often outside of a child friendly environment.³⁰⁵

Under the Code of Criminal Procedure, all complaints must be recorded in writing and signed by the person giving the information.³⁰⁶ Therefore, anonymous reports are not permitted in Bangladesh. In addition, there is no duty for public prosecutors to carry out ex-officio investigations.³⁰⁷ Therefore, a criminal case can only be initiated by a Magistrate based on a complaint, a police report or information from any other person, or based on their own knowledge that such offence has been committed.³⁰⁸ However, for cognizable offences,³⁰⁹ which include all offences covered under the Acts reviewed in section 3, police can investigate and make arrests without a court order.³¹⁰

The majority of criminal offences in Bangladesh are not subject to statutory limitation periods. These periods are prescribed by law and designate the maximum amount of time after a crime has been committed in which legal proceedings may be initiated against an offender. However, for offences under the Child Marriage Restraint Act a limitation period of two years applies, meaning that after this time has passed the offence will no longer be prosecutable.³¹¹ When sexually exploited children do disclose their abuse, their disclosure is often delayed,³¹² potentially thwarting their access to justice. Given that child, early and forced marriage is both a form of, and a pathway to sexual exploitation of children,³¹³ it is recommended that there are no statutory limitation periods for related crimes, as well as all offences concerning sexual exploitation of children.

The Government of Bangladesh also operates the National Helpline 109 for victims of crimes, where children can seek help, advice and get

298 Government of Bangladesh. (2013). *Children's Act*. Article 53-54.

299 *Ibid.*

300 *Ibid.*, Article 13.

301 *Ibid.*, Article 14.

302 RAPID & UNICEF. (2020). *Policy Brief: The Situation of Children in Bangladesh*. 22.

303 *Ibid.*, 14.

304 Association for Community Development. (2022). Personal Communication

305 *Ibid.*

306 Government of Bangladesh. (1898). *Code of Criminal Procedure*. Article 154.

307 *Ibid.*, Article 190.

308 *Ibid.*

309 *Ibid.*, Article 4(f). A cognizable offence is an offence in which the police may arrest a person without a warrant.

310 *Ibid.*

311 Government of Bangladesh. (2017). *Child Marriage Restraint Act*. Article 18.

312 ECPAT International. (2017) "Through the Eyes of the Child: Barriers to Access to Justice and Remedies for Child Victims of Sexual Exploitation ECPAT International". (2017), 58.

313 ECPAT International. (2020). *Summary paper on Child Early and Forced Marriage as a Form of, or Pathway to Sexual Exploitation of Children*. Bangkok: ECPAT International.

information about reporting sexual exploitation crimes to authorities.³¹⁴ The helpline is open to women and children. It is not exclusively for sexual exploitation crimes. It includes child marriage, dowry, sexual harassment, child sexual abuse materials and trafficking under the issues the helpline may assist in.³¹⁵ The helpline operates 24/7 and offers a range of services, including crisis support, legal and police assistance, counselling and medical support.³¹⁶ In 2020, the last year for which annual numbers have been made public, the helpline received 1,321,167 calls.³¹⁷ However, the public data is only disaggregated by the main topic of the call. It is unclear how many of these calls were made by children or how many related to sexual exploitation. In a 2020 report, Human Rights Watch noted a “glaring gap” between the number of women and girls using the helpline and those who were referred to the necessary services, suggesting the availability of resources was much lower than required.³¹⁸ In addition, Association for Community Development highlighted long delays between children seeking help and referral to the required services.³¹⁹

Lastly, in 2017 Save the Children ran a pilot digital reporting web-portal available in Dhaka for violence against children.³²⁰ However, the portal did not continue to be operational after the initial pilot scheme and so Bangladesh does not currently have a functioning digital reporting portal.

CHILD-SENSITIVE JUSTICE

With the enactment of the Children’s Act in 2013, Bangladesh introduced a broad range of child-

sensitive justice measures. First, the Act provides for the establishment of Children’s Courts, which must be established in every district and metropolitan area of Bangladesh and have jurisdiction over all cases involving child victims or witnesses.³²¹ However, despite the Act being enacted in 2013 and a 2017 memorandum of understanding between UNICEF and the Supreme Court of Bangladesh to expedite the implementation of the Act,³²² the first Children’s Court was not established until 2018.³²³ Further, as of 2020, Bangladesh had not still not established the required number of Children’s Courts.³²⁴ Anecdotal evidence also indicates that the existing Children’s Courts are not established evenly throughout the country.³²⁵

Under the Act, children have the right to participate in all stages of court proceedings.³²⁶ In addition, it provides that if it is deemed in the best interests of the child, all persons except the child may be ordered to leave the courtroom.³²⁷ All information given is required to be delivered in an easy and understandable language and, if necessary, the court will provide an interpreter for the child.³²⁸ Further, proceedings of cases involving children are to be kept confidential, with a prohibition on the publication of any information that could lead to the identification of the child.³²⁹

All interviews with child victims must be conducted in a special child-friendly environment by the Child Affairs Police Officer.³³⁰ When the child is a girl, the interview must be conducted by a female police officer in the presence of a parent or guardian.³³¹ Judicial proceedings must take into consideration the age, sex and maturity of the child victim.³³² The Act provides that child victims or witnesses in court should be allowed to testify behind a curtain, through pre-recorded video evidence, through an

314 Government of Bangladesh. (n,d) *National Helpline Centre for Violence against Women and Children: Brochure*.

315 Government of Bangladesh. (n,d) *National Helpline Centre for Violence against Women and Children: Types of Call*.

316 Government of Bangladesh. (n,d) *National Helpline Centre for Violence against Women and Children: Brochure*.

317 Government of Bangladesh. (n,d) *National Helpline Centre for Violence against Women and Children: Report (Monthly)*.

318 Human Rights Watch. (2020). *“I Sleep in My Own Deathbed” Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

319 Association for Community Development. (2022). Personal Communication

320 Save the Children. (2016). *Citizen Reporting Platform*.

321 Government of Bangladesh. (2013). *Children’s Act*. Articles 16-17.

322 BDNEWS24. (2017). *UNICEF Joins with the Supreme Court to Strengthen Child Protection in Bangladesh*.

323 Daily Observer. (2019). *Implementation of the Children’s Act Required*.

324 RAPID & UNICEF. (2020). *Policy Brief: The Situation of Children in Bangladesh*. 14.

325 Association for Community Development. (2022). Personal Communication

326 Government of Bangladesh. (2013). *Children’s Act*. Article 22.

327 *Ibid.*, Article 25.

328 *Ibid.*, Article 27

329 *Ibid.*, Article 28.

330 *Ibid.*, Article 54.

331 *Ibid.*

332 *Ibid.*

appropriate mediator or by conducting an in camera session or video-linked session.³³³ Further, if the child does not wish to give evidence with the alleged offender present, the offender can be removed from the courtroom by the magistrate/judge.³³⁴ However, the Act provides that these measures will be applied “subject to availability”.³³⁵ Indeed, although Bangladesh has 64 districts, a 2020 press release from UNICEF identified that only 16 courts offered a suitably child friendly environment with staff that had been trained on child rights.³³⁶ Anecdotal evidence confirms these circumstances.³³⁷ Whilst Bangladesh has good legislative measures regarding child sensitive justice processes, challenges remain in their practical application.

ALTHOUGH BANGLADESH HAS 64 DISTRICTS

in 2020 there were only

16 courts

offering a child friendly environment.



The Children Act provides that no case involving a child will proceed unless they have legal representation.³³⁸ Further, if they cannot afford such representation, it will be appointed for them by the State.³³⁹ Lastly, when any child victim is perceived to be at risk of any harm the relevant authority will order police security to be provided for the child and their family.³⁴⁰ In the course of this research

no information was found on the number of child victims of sexual exploitation who had availed of these services.

The Prevention and Suppression of Human Trafficking Act also contains a number of provisions which may be relevant for children seeking justice from crimes of sexual exploitation. First, for cases involving women and child victims trial *in camera* proceedings may be ordered, with the presence of only the parties to the case and their representatives.³⁴¹ The Act also provides that the Anti-Human Trafficking Offence Tribunal must conclude the trial within 180 days of the charge.³⁴² However, it has been reported in the media that Bangladesh faced large backlogs of human trafficking cases in 2021.^{343,344} It is unclear how many of these cases involved child victims. Further, the 2022 US Department of State’s Trafficking in Persons report highlighted that, in an attempt to address the case backlog, mobile courts continued to be used for trafficking crimes instead of the assigned Anti-Human Trafficking Offence Tribunals.³⁴⁵ This is problematic given that the maximum sentence the mobile courts can deliver is two years imprisonment,³⁴⁶ three years less than the minimum sentence for trafficking offences.³⁴⁷ Lastly, access to justice for trafficking victims can result in delays of between four to six years from the initiation to conclusion of a case.³⁴⁸ Anecdotal evidence suggests such delays have contributed to victims withdrawing their case due to sustained pressure from community members to do so.³⁴⁹

Access to recovery and reintegration

Under the Children’s Act, child victims and witnesses and disadvantaged children are entitled to alternative care providing special protection, care and development.³⁵⁰ Under the Act, “disadvantaged children” include child victims of sexual oppression

333 *Ibid.*

334 *Ibid.*

335 *Ibid.*

336 UNICEF. (2020). *UNICEF welcomes release of children from detention.*

337 Association for Community Development. (2022). *Personal Communication*

338 Government of Bangladesh. (2013). *Children’s Act*. Article 55.

339 *Ibid.*

340 *Ibid.*, Article 58.

341 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 25.

342 *Ibid.*, Article 24.

343 Thomas Reuters Foundation news. (2021). *Lack of evidence, financial help found hurting Bangladesh trafficking cases.*

344 Association for Community Development. (2022). *Personal Communication*

345 US Department of State. (2022). *Trafficking in Persons Report*. 110.

346 Government of Bangladesh. (2009). *Mobile Courts Act*. Article 6.

347 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 3.

348 Association for Community Development. (2022). *Personal Communication*

349 *Ibid.*

350 *Ibid.* Article 84.

or harassment, or a child staying with or going to the residence of a person engaged in prostitution.³⁵¹

For victims of trafficking, specific provisions are contained under the Prevention and Suppression of Human Trafficking Act. It states that the government will make procedures for the identification, rescue, repatriation and rehabilitation of trafficking victims and will coordinate with relevant non-governmental organisations.³⁵² Further, these processes must be done with special regard to the needs and welfare of women and children and be delivered in a victim friendly manner.³⁵³ The Act also provides that the government will establish adequate numbers of protective homes and rehabilitation centres throughout the country in order to provide physical and psychological treatment, rehabilitation and family reconciliation.³⁵⁴ Any person or organisation who wants to establish a protective home or rehabilitation centre must first receive a license from the government.³⁵⁵ Further, all victims of trafficking are entitled to medical treatment, legal and psychological counselling and access to rehabilitation and social integration services.³⁵⁶ However, as these provisions relate only to trafficking victims, they may not be available for child victims of other forms of sexual exploitation.

After the enactment of the National Plan to Prevent Violence Against Women and Children in 2013, the government created nine One Stop Crisis Centres, situated in hospitals around the country.³⁵⁷ These centres aim to provide a range of services for women and child victims under one roof, including medical, legal, social assistance, psychological counselling and shelter facilities.³⁵⁸

In addition, One Stop Crisis Cells were established in each of Bangladesh's 64 districts, with the aim of helping coordinate with non-governmental organisations, monitoring cases and connecting victims to services.³⁵⁹ As of October 2020, One Stop Crisis centres had provided assistance to 14,000 victims of sexual assault.³⁶⁰ However, this number includes both women and children and so the exact number of child victims included is unclear. In a 2020 report on violence against women in Bangladesh, Human Rights Watch identified that public awareness of these centres was low.³⁶¹

The government has also established 8 Victim Support Centres throughout the country to support women and children subjected to all forms of violence, including sexual exploitation crimes. These provide legal assistance, psychological assistance and shelter facilities and are operated in coordination with 10 partner non-governmental organisations.³⁶² Included in this network of non-governmental organisations are the three ECPAT member organisations in the country, Association for Community Development, Aparajeyo-Bangladesh and Ain o Salish Kendra.³⁶³ However, these support centres only provide emergency shelter for up to 5 days and have limited capacity, some under-trained staff, and limited resources available.³⁶⁴ An evaluation with six adults and six children supported at the Dhaka Victim Support Centre showed that nine of the 12 respondents believed that the 5 days of crisis shelter were insufficient and 6 of the 10 who received medical support thought it was inadequate.³⁶⁵ The government has also established seven Safe Custody Homes throughout the country. However, in order to stay at these homes, a court order is required.^{366,367}

351 Government of Bangladesh. (2013). *Children's Act*. Article 89.

352 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 32.

353 *Ibid.*

354 *Ibid.*, Article 35.

355 *Ibid.*

356 *Ibid.*, Article 36.

357 Government of Bangladesh. (n.d). *One Stop Crisis Centre*.

358 *Ibid.*

359 Government of Bangladesh. (n.d). *One Stop Crisis Cell*.

360 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

361 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

362 Government of Bangladesh. (n.d). *About Victim Support Center (VSC)*

363 *Ibid.*

364 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

365 Mahmuda Akter, Aktaruzzaman Shakil. (2020). *Effectiveness of Victim Support Services: A Study on Victim Support Center in Dhaka*. International Journal of Science, Technology and Society. Vol. 8, No. 3. 36.

366 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

367 US Department of State. (2022). *Trafficking in Persons Report*. 109.

Additional to the government run crisis accommodation, there are also estimated to be around 15 shelters run by non-governmental organisations for crisis support operating throughout Bangladesh. Some of these are for specific populations (exclusively for girls for example)³⁶⁸ and some were for victims of specific crimes, such as trafficking.³⁶⁹

ACCESS TO COMPENSATION

Child victims of sexual exploitation may be able to claim compensation under a number of different laws within the Bangladeshi legal framework. The Code of Criminal Procedure provides that a criminal court has the power to award compensation to a victim for any loss or injury caused by the offence.³⁷⁰ Further, the Children's Act states that any offender found guilty of a crime against a child victim may be ordered to pay compensation to that child.³⁷¹ The Child Marriage Restraint Act further adds that any money raised from penalty fines collected for child marriage offences will be used to pay compensation to the child victim.³⁷²

The Prevention and Suppression of Human Trafficking Act contains provisions relevant to compensating child victims of trafficking offences. The Act states that the court may order a convicted trafficking offender to pay compensation to the victim.³⁷³ The amount of compensation to be paid will be determined based on cost of physical and mental treatment incurred by the victim, cost of temporary housing or transportation, loss of income, actual or emotional injury and amount of distress.³⁷⁴ The Act also provides that a victim of

trafficking may file for civil compensation, alongside criminal proceedings.³⁷⁵ Finally, the Act establishes the Human Trafficking Prevention Fund,³⁷⁶ from which financial assistance may be paid to victims of trafficking.³⁷⁷ Whilst compensation has been granted to child victims of trafficking, conclusion of cases can often take between four and six years, significantly delaying the award of compensation.³⁷⁸ Furthermore, cases in which child victims have been awarded compensation are rare.³⁷⁹

Lastly, the Prevention of Oppression Against Women and Children Act also provides that compensation may be paid to victims out of the penalty fines under the Act.³⁸⁰ However, research conducted in 2020 by the Bangladesh Legal Aid and Services Trust highlighted that in 44 cases in which the accused was convicted of a rape offence, in only 3 was the associated fine converted into compensation for the victim.³⁸¹

368 Human Rights Watch. (2020). *"I Sleep in My Own Deathbed" Violence against Women and Girls in Bangladesh: Barriers to Legal Resource and Support*.

369 *Ibid.*

370 Government of Bangladesh. (1898). *Code of Criminal Procedure*. Article 545.

371 Government of Bangladesh. (2013). *Children's Act*. Article 38.

372 Government of Bangladesh. (2017). *Child Marriage Restraint Act*. Article 13.

373 Government of Bangladesh. (2012). *Prevention and Suppression of Human Trafficking Act*. Article 28.

374 *Ibid.*

375 *Ibid.*, Article 39.

376 *Ibid.*, Article 42.

377 *Ibid.*, Article 40.

378 Association for Community Development. (2022). *Personal Communication*.

379 *Ibid.*

380 Government of Bangladesh. (2000). *Prevention of Oppression Against Women and Children Act*. Article 16.

381 BLAST. (2020) *No Justice with Reparation*. 13.

CHILDREN'S AND SURVIVORS' PARTICIPATION

Whilst the National Action Plan to Prevent Violence Against Women and Children 2013-2025 includes the goal of including students in awareness-raising activities to prevent violence and promote gender equality in educational institutions,³⁸² it does not include specific targets of ensuring children and survivor participation in activities relating to sexual exploitation of children. Including the active participation of child victims and survivors in decision making processes on matters that directly affect them would be extremely beneficial to the future formulation of government policies and programmes relating to sexual exploitation of children.

Despite the lack of participation in government processes relating specifically to sexual exploitation, children do directly participate in a number of initiatives within Bangladesh. Children, some of whom who have been victimised by child marriage themselves, are active members of Child Forums throughout the country and engage in various activities designed to prevent child marriage.³⁸³ Involved children identify children at risk of child marriage and engage with community leaders and local police to prevent the marriage from taking place.³⁸⁴ Further, child members participate in learning sessions on aspects such as the legal situation of child marriage and its negative effects before subsequently sharing this knowledge and thus raising awareness within their local communities.³⁸⁵

In regard to trafficking, after the implementation of the National Plan of Action for Prevention and Suppression of Human Trafficking 2018-2022 Counter Trafficking Committees were established at community level that have included the participation of children.³⁸⁶ These child representatives are encouraged to participate by collaborating on how best to avoid trafficking victimisation.³⁸⁷

Lastly, non-governmental organisations are important for ensuring participation of children on matters relating to sexual exploitation. As an illustrative example, Association for Community Development works with youth on matters including gender-based violence, dowry and child marriage to empower young people to engage in prevention activities themselves.³⁸⁸ As of August 2022, a project focused on adolescent empowerment in ending child marriage is currently being implemented. This project involves around 1000 children aged between 10 and 19 across 40 adolescent clubs from marginalised and border communities, as well as religious leaders, marriage registrars, civil society, teachers and parents.³⁸⁹

382 Government of Bangladesh. (2013). *National Action Plan to Prevent Violence Against Women and Children 2013-2025*.

383 World Vision and University of Edinburgh. (2021). *Children's participation in ending child marriage: Exploring child activism in Bangladesh*. 25-30.

384 *Ibid.*

385 *Ibid.*

386 Girls Advocacy Alliance. (2020). *GAA Success Story Booklet*. 21.

387 Association for Community Development. (2022). Personal Communication.

388 Association for Community Development. (n,d). *Child Rights Sector*.

389 Association for Community Development. (2022). Personal Communication.

RECOMMENDATIONS FOR ACTION

International and regional legislation, commitments and coordination to ending sexual exploitation of children

- ➔ Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

National response to manifestations of sexual exploitation of children

- ➔ Amend all current provisions in laws specifying gender to instead cover children of all genders, such as Article 366A of the Penal Code to cover procurement of all children and Article 375 of the Penal Code to criminalise rape of any child.
- ➔ Enact legislation that defines exploitation of children in prostitution and explicitly states that under no circumstances will a child victim be prosecuted.
- ➔ Amend the Anti-Pornography Act to include a comprehensive definition of child sexual abuse materials, to include “any representation” of child sexual abuse materials and to create specific offences for related conduct to avoid relying on general pornography provisions to prosecute crimes involving children.
- ➔ Amend the Anti-Pornography Act to criminalise online grooming of children, including offences in which the abuse takes place online and there is no meeting, and live streaming of child sexual abuse.
- ➔ Amend the Anti-Pornography Act to specifically exclude a child’s criminal liability for sharing self-generated sexual content, especially when compelled to do so in an abusive situation.
- ➔ Amend the Regulatory and Licensing Guidelines for Internet Service Providers in Bangladesh to obligate Internet service providers to filter, block and report child sexual abuse material contained on their servers.
- ➔ Amend the Prevention and Suppression of Human Trafficking Act to ensure that all trafficking crimes have higher penalties when committed against children.
- ➔ Enact legislation that criminalises the organisation of travel arrangements or transportations that are explicitly or implicitly meant to create or facilitate opportunities to engage (involve) children in sexual activities.
- ➔ Amend the Child Marriage Restraint Act to ensure the minimum age of marriage is set at 18 with no exceptions and to remove penalties for children who marry.
- ➔ Amend Article 375 of the Penal Code to remove the provision granting impunity to offenders who commit rape within marriage.
- ➔ Ensure the proper funding and implementation of all national action plans containing objectives relating to sexual exploitation of children.
- ➔ Provide transparency by conducting and publishing monitoring and evaluation of actions defined by all national actions plans relating to sexual exploitation of children.
- ➔ Incorporate all manifestations of sexual exploitation of children into existing national plans of action, in particular ensuring inclusion of objectives aimed at countering online sexual exploitation, sexual exploitation in travel and tourism and exploitation in prostitution.

- ➔ Ensure that awareness raising activities conducted by Counter Trafficking Committees are conducted in all areas of Bangladesh and include information relating to trafficking of children.
- ➔ Carry out awareness raising activities relating to online sexual exploitation of children, sexual exploitation of children in travel and tourism and exploitation of children in prostitution.
- ➔ Implement effective programmes that tackle the root causes of child, early and forced marriage and trafficking – such as poverty and lack of access to education– especially in the Rohingya community.

Access to justice and right to remedies for child victims of sexual exploitation

- ➔ Ensure that all Child Affairs Desks are equipped with the necessary trained staff and avoid retraumatisation of child victims by ensuring that they are not required to retell their account multiple times.
- ➔ Remove the statutory limitation periods included for crimes relating to child, early and forced marriage under the Child Marriage Restraint Act.
- ➔ Review the services of The National Helpline109 and provide sufficient funding and staff to ensure timely referrals for child contacts.
- ➔ Establish Children’s Courts in all districts of Bangladesh and ensure that during judicial proceedings all child victims and witnesses have access to all child sensitive justice measures established under the Children’s Act.
- ➔ Expand government crisis accommodation facilities to guarantee access is available if needed for all children subjected to sexual exploitation.
- ➔ Provide necessary funding and support to non-governmental organisations providing recovery and reintegration services to children subjected to sexual exploitation.
- ➔ Clear the current backlog of cases related to sexual violence against children and ensure expeditious resolution of all sexual exploitation of children cases, avoiding delays.

Children’s and survivors’ participation

- ➔ Set-up a strong and permanent mechanism to ensure children and survivors are participating in policy-making and evaluation of activities related to sexual exploitation of children.

Research needs and agenda

- ➔ Fund and conduct research on sexual exploitation in travel and tourism, with a particular focus on domestic tourism and tourism identified for the purposes of sexual exploitation of children in Cox’s Bazar.
- ➔ Government must standardise and make public data on all forms of sexual exploitation of children in order to better design evidence-based policies aimed at prevention and addressing the actual needs of child victims.



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