

Trafficking and  
Exploitation in the  
Entertainment and  
Sex Industries  
in Nepal

A HANDBOOK FOR **DECISION** MAKERS



Terre des hommes

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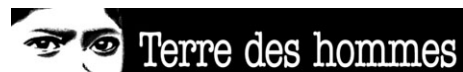
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**Trafficking and Exploitation  
in the Entertainment and Sex Industries in Nepal**

**A HANDBOOK FOR DECISION-MAKERS**

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## ACRONYMS

AATWIN	Alliance Against Trafficking in Women and Children in Nepal	MoWCSW	Ministry of Women, Children and Social Welfare
AIDS	Acquired Immunodeficiency Syndrome	NACP	National AIDS Control Programme
AIN	Association of International NGOs in Nepal	NCASC	National Center for AIDS and STD Control
CA	Constituent Assembly	NCCR	National Center for Children at Risk
CBO	community-based organisation	NFE	non-formal education
CCWB	Central Child Welfare Board	NGO	non-governmental organisation
CDO	Chief District Officer	NHRC	National Human Rights Commission
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	NNAGT	National Network against Girl Trafficking
CRC	Convention on the Rights of the Child	NPA	National Plan of Action
CSA	child sexual abuse	NPC	National Planning Commission
CSEC	commercial sexual exploitation of children	NRT	National Rapporteur against Trafficking in Women and Children
DAO	District Administration Office	NWC	National Women Commission
DCWB	District Child Welfare Board	ONRT	Office of the National Rapporteur on Trafficking
DDC	District Development Committee	PLWHVA	people living with HIV/AIDS
DIC	drop-in centre	SAARC	South Asian Association for Regional Cooperation
DTF	District Task Force	SC	Supreme Court of Nepal
GO	government organisation	STD	sexually transmitted disease
HIV	Human Immunodeficiency Virus	STI	sexually transmitted infection
ILO	International Labour Organisation	Tdh	Terre des hommes Foundation
INGO	international non-governmental organisation	TPO	Transcultural Psychosocial Organization
IOM	International Organisation for Migration	UN	United Nations
MoES	Ministry of Education and Sports	UNAIDS	United Nations Joint Program on HIV/AIDS
MoFA	Ministry of Foreign Affairs	UNDP	United Nations Development Programme
MoHA	Ministry of Home Affairs	UNICEF	United Nations Children's Fund
MoHP	Ministry of Health and Populations	UNICEF ROSA	UNICEF Regional Office for South Asia
MoLD	Ministry of Local Development	UNIFEM	United Nations Development Fund for Women
MoLJPA	Ministry of Law, Justice and Parliamentary Affairs	VAW	violence against women
MoLTM	Ministry of Labour and Transport Management	VCT	voluntary counselling and testing
		VDC	Village Development Committee
		WHO	World Health Organisation

## Preface by the Special Rapporteur

# VICTIMS ARE CLOSER TO US THAN THEY APPEAR

Terre des hommes Foundation deserves congratulations for bringing out this Handbook for decision-makers on “Trafficking and Exploitation in the Entertainment and Sex Industries in Nepal”. The Handbook provides the profile of the entertainment and sex industries and the trafficking of women and children. As it brings out the perspective of respective stakeholders, we hope the document can contribute as technical reference for **decision-makers** for handling the challenges on the respective issues.

This Handbook forces us to **look harder and closer** at the existing problem of human trafficking and exploitation in our own country. It reveals that the extent of exploitation that the women and children endure in the cabin restaurants and massage parlours and even in the guest houses is serious both in terms of internal and external trafficking of women and children. Talking about the impact of the entertainment and sex industry the Handbook says that a decade ago, Nepal had not faced serious exploitation of women and children due to internal trafficking. Much concern has been raised about external trafficking of women and children to India. The times have changed. The country faces the problem of trafficking of women and children to India and beyond, together with the problem of internal trafficking. In the context of the depth of the problem, internal trafficking also needs serious efforts for making entertainment industry a dignified sector of the industry. The human rights of this vulnerable population need to be protected. The enactment of the comprehensive “Human Trafficking and Transportation (Control) Act 2064” has

presented Nepal as a model country in South Asia; a country in which human trafficking has been acknowledged and in which there are strong legal provisions to address it. Most significantly, the inclusion of the issue of internal trafficking in this Act ensures safeguarding the rights of the trafficked survivors and the prosecution of the perpetrators. Now **the time has come** for us to realize this in practice.

As a priority, let us make concerted efforts to ensure that the rights of the Nepali children are realized, as endowed by the Convention on the Rights of the Child (CRC) - the convention that we have ratified two decades ago. Thus, it is our legal and moral obligation to bring back the stolen childhood of these children, and the people who have vision and power to change the scenario is you, the **decision-makers**.

It is right time for all decision-makers: civil society leaders, Constituent Assembly members, government officials, journalists, diplomats, opinion leaders and also parents of the children and children themselves to take the decision now, so that no children are subjected to commercial sexual exploitation and abuse in the name of “entertainment”. And no adult is trafficked to and exploited in the entertainment industry.

Ms. Padma Mathema  
Special Rapporteur  
National Human Rights Commission

## A foreword by Terre des hommes Foundation

### UNCONDITIONALLY

**Why this Handbook now?** Because decisions need to be taken now. In a few years it will be too late. There will be no way back. While progress was recently made towards regulating the entertainment industry, commercial sexual exploitation is not adequately addressed. Terre des hommes Foundation (Tdh) has met very young children who are being exploited by “owners” as sex slaves in squalid conditions 12 hours a day, 7 days a week. Here the term “owner” is used to describe the illegal possession of a person through debt bondage or other means, not only ownership of an establishment such as a massage parlour or a cabin restaurant (for a description of a cabin restaurant, see page 32). Because we strongly believe this kind of sexual exploitation is one of the *unconditional worst forms of child labour* which should be eradicated, we have seized the opportunity of the upcoming revision of the “National Plan of Action for Combatting Against Trafficking in Children and Women, revision 2001” to present this handbook.

**Who is a decision-maker?** Anyone who will have a role to play in addressing the issues of the entertainment industry, the sex industry and internal trafficking in Nepal. In particular, all those who will be consulted or take part in the revision of the National Plan of Action on anti-trafficking: civil society leaders, Constituent Assembly members, government officials, journalists, diplomats, opinion leaders. We hope that this handbook will

help decision-makers move forward with the hard decisions they will need to take in the future. Our strong hope is that these decisions will be child-friendly. If you’re a government civil servant, a member of civil society, and child rights activist and you feel that not enough is being done to eradicate the use of children as sexual objects then you too are a decision-maker! We would like to hear from you at [info@tdhnepal.org](mailto:info@tdhnepal.org). Everyone counts in the fight against sexual exploitation of children.

**What’s new?** The number of establishments using and abusing minors is increasing (see graphic p.23) . The number of customers is increasing. The average age of children is decreasing. While the phenomenon of commercial sexual exploitation of children and women is not new, this is now taking place as part of a *sex industry*. This in itself is a new phenomenon. In spite of all these developments, there hasn’t been a proper national debate on the nascent sex industry. There should be one. Nepali people have elected representatives but they have not yet had the opportunity to discuss whether or not Nepal wants a sex industry, and whether this industry should involve commercial exploitation of children. Influential business actors are in favour of a sex industry; others are in favour of an entertainment industry only. What does the majority want?

**Isn't it too late already?** The Nepali friends I have spoken to do not always realize the magnitude of the problem and its self-perpetuating nature. Some people outside Kathmandu are not even aware of the existence of a burgeoning sex industry and its consequences on women and children. Others are not aware of the *multiplier effects* which will contribute to an exponential growth such as the practice of forcing someone who wants to get out of the trade to recruit one or several replacements. We believe it isn't too late if a proper debate takes place without delay. Other countries that have struggled through the same issues have found it easier to regulate the industry (and ban the use of underage children) before the lobby was too powerful.

**What can be done?** With underdeveloped or non-existent child protection systems, Nepal cannot afford to leave this issue unaddressed. The executive and legislative powers should not leave any stone unturned to protect the children: by including clear prohibitions in the new Constitution, by enacting laws that protect children and women instead of criminalizing them; by enforcing these laws, rescuing children systematically and prosecuting the perpetrators; by rehabilitating and reintegrating the survivors; and by addressing the serious consequences of trafficking, including HIV/AIDS infection. The U.N. and the World Bank state that HIV/AIDS, driven largely by sex work, will be the leading cause of Nepali deaths by 2010.<sup>1</sup>

**Who is behind this Handbook?** A number of committed child rights activists who really did not like seeing younger and younger girls in Thamel, Gongabu, Koteshwor and other parts of the country. This Handbook was presented to and reviewed by the Anti-trafficking International Agencies Coordinating Group (IACG). Above all, we would like to express our deepest appreciation to John Frederick without whom this Handbook would not have seen light, to Muna Basnyat, Terre des hommes Foundation's Regional Adviser and Programme Coordinator whose dedication knows no bounds, and to Joanne Doucet, Chief, Child Protection UNICEF, whose commitment to child rights is exemplary. We are indebted to Purna Shrestha and Pravash Pokhrel for their professional and empathetic work in conducting research. All of us, whether involved directly or indirectly in this Handbook, whether Nepali or international, shared the same objective: we want to see the end of using, procuring or offering children for commercial sexual exploitation. Unconditionally.

This Handbook is dedicated to Anita, Puja, Payal, Usma, Muna, Sharmila and the other children we met at Hanuman Dhokha police station on 20 October 2008. They were a constant source of inspiration for us, as we embarked on the development of this document and programmatic responses.

  
Joseph L. Aguetant  
Country Representative  
Terre des hommes Foundation



## AN OVERVIEW OF TRAFFICKING AND EXPLOITATION

## PART 1.

### WHAT IS HUMAN TRAFFICKING?

Human trafficking is defined in different ways in different national and international legislation. The United Nations 'Palermo Protocol', which entered into force in 2003, is the accepted international definition of trafficking.<sup>2</sup> Many countries of the world, including Nepal, have revised their national legislation using that definition. The Palermo Protocol defines trafficking as the *process* of placing a person, using various *means*, with the intent of exploiting the person. The Palermo definition, with some additions, corresponds with Nepal's Human Trafficking and Transportation (Control) Act 2007.<sup>3</sup>

#### How is a 'child' defined?

International law defines a child as any person under 18 years of age. Nepal's Human Trafficking and Transportation (Control) Act 2007 follows the same definition. However, the Children's Act 1992 and the Child Labour (Prohibition and Regulation) Act 2000 both define a child as a person under 16. This inconsistency causes problems in legally defending the rights of exploited children.

### Does all trafficking end up in commercial sexual exploitation?

No. There are many other forms of exploitation into which a child or adult may be trafficked, both inside Nepal and outside the country. Other common forms of exploitation include child domestic labour, work in sweatshops such as *bidi* factories or embroidery workshops, circus performances, agricultural labour and military service. Men, as well as women, have been trafficked from Nepal to exploitative labour in the Middle East by unscrupulous employment agents.

For children, any person who places a child in one of the 'worst forms of child labour' – as defined by the International Labour Organisation (ILO) Convention 182<sup>4</sup> – can be considered a trafficker. ILO Convention 182, to which Nepal is a signatory, defines the 'worst forms of child labour' as:

- Slavery, debt bondage and forced labour, including armed conflict
- Prostitution and pornography
- Using the child for illicit activities, particularly drug trafficking
- Work which is likely to harm the health, safety or morals of children

## Human trafficking is:

One or several acts



Using several means



With a specific intention

More precisely:

**DOING  
SOMETHING  
to someone**

Recruiting  
(buying or procuring)  
someone  
Transporting someone  
Transferring someone  
Harbouring someone  
Receiving (selling and buying)  
someone

+

**BY MEANS OF**

Threat  
Use of force  
Other means of coercion  
Abduction  
Fraud  
Deception  
Abuse of power  
Giving or receiving benefits to gain  
consent of person who has control  
over another person  
Added in Nepal's Trafficking Act 2007  
Enticement / allurement  
Making unconscious  
Alluring, causing fear, giving threat or  
coercing parent or guardian

+

**FOR THE PURPOSE  
OF EXPLOITATION**

Exploitation includes, but is not  
limited to....  
Prostitution  
Other forms of sexual exploitation,  
such as pornography  
Forced labour or services  
Slavery or practices similar to  
slavery  
Servitude  
Removal of organs  
Adoption

**Is trafficking the only way in which a person can end up in exploitation?**

No. There are other ways, including:

- *Entering into exploitation due to lack of alternatives.*  
In Nepal in the late 1990s, when carpet factories closed, many children were pushed into commercial sexual exploitation because they had no alternatives and needed to feed themselves and their families. Across the world, many street children perform 'survival sex', selling their bodies so they can eat, and so that others won't abuse them more. Often, 'freed' bonded labourers re-enter exploitation because after their 'freedom', they have no land or any other way to support their families. Today, in Nepal's emerging sex industry, many married women are engaged in sex work because their husbands have abandoned them and they have to feed their children.
- *Indebtedness.* Poor people, particularly farmers and migrant labourers, are forced into servitude when they incur debts to landlords, moneylenders or agents, and don't have the ability to repay those debts. Some women in Nepal's sex industry are forced to conduct sex work because they have been tricked into indebtedness and cannot pay their debtors.
- *Born into bonded labour.* A child may be born into a family that is in labour bondage. They are victims by birth, not by trafficking.

- *Forced marriage and child marriage.* Girls and women are sometimes forced into marriages in which they are deprived of freedom, abused and treated as labourers by the husband and in-laws.

**Which is the worse crime, trafficking or exploitation?**

Almost always exploitation. Although governments, non-governmental organisations (NGOs), donors and the media focus their attention on trafficking, exploitation is the worse crime. Trafficking is only one means of entering exploitation. It takes a short time, and usually the victim is not seriously damaged during the trafficking episode, because the trafficker wants to sell the victim as a healthy worker. A situation of exploitation can last for years – or even a lifetime. During this time, the victim is exploited economically, and is often damaged physically, emotionally and socially. The trafficker makes a small, one-time profit from selling the victim, but the exploiter makes a large, long-term profit from the victim's free labour. And without the exploiters, there would be no business for the traffickers.

**Does exploitation need to take place for it to be trafficking?**

No. The act of exploitation in itself is not a constitutive element of the definition. It is the *purpose*, the criminal intent or state of mind (*mens rea*) of the alleged trafficker that matters. There simply has to be an intent to exploit. An interesting example is the sale of children for the purpose of intercountry adoption. In this case the adoptive parents may not be aware of the

'sale' and normally do not adopt for the purpose of exploiting a child. Although trafficking for intercountry adoption purposes does not necessarily fall within the purview of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (usually referred to as the 'Palermo Protocol') irregularities in intercountry adoption involving 'improper financial gain' are deemed by some to constitute a crime of child trafficking.<sup>5</sup>

#### **Why do people traffic and exploit others?**

Money. Traffickers earn money from selling victims to exploiters. Exploiters earn money from using the labour of the victims without giving them a proper salary or benefits in return. Numerous 'middle-men' and 'facilitators', including officials, earn money from sectors such as sex work into which people are trafficked and exploited.

#### **Who else benefits from trafficking and exploitation?**

The ordinary consumer. Consumers are both apathetic and ignorant about the abuse of other humans in the production of the goods and services which they consume. Thus, they are complicit in the trafficking and exploitation of others. Many households in Nepal use child domestic labour. Thousands of Nepali men buy sex. Many men in the Terai smoke *bidis*. Almost everyone uses chocolate products, although much of the world's chocolate is produced by bonded labour. In some cases, the consumers are unaware that others are exploited

for their benefit. In other cases – such as the use of children for domestic labour and commercial sexual exploitation – consumers are aware, but do not care.<sup>6</sup>

#### **What are the factors leading to trafficking and exploitation?**

People get trafficked and exploited because of numerous factors which make them vulnerable. There are two tiers of the 'causes' of trafficking and exploitation:

- Root causes
- Activating causes

**Root causes.** These are structural and social factors in a society which weaken people's resistance to trafficking and exploitation. Poverty and landlessness are two of the most common causes of vulnerability in South Asian society. Gender discrimination undermines the strength and opportunities of all girls and women in the region. Official corruption, misappropriation of wealth and opportunity, and caste/class discrimination are endemic in much of the region. Lack of access to information, and lack of awareness make people more likely to be deceived by traffickers and less able to make informed decisions. The poor education system and lack of education opportunities in remote districts reduce opportunities for employment and contribute to girls and women entering exploitation.<sup>7</sup>

**Activating causes.** It is important to consider that poverty, gender discrimination, etc. alone do not lead to trafficking and exploitation. Most poor people are good parents who can adequately protect their children. Many girls and women suffer from gender-based violence and discrimination without becoming trafficked. Additional ‘activating’ factors push families and children into extreme vulnerability – and these are the people who are easy targets for traffickers and exploiters.

- *Family dysfunction.* Factors such as alcoholism, absence of mothers or fathers, polygamy, divorce, re-marriage and domestic violence damage the ‘safety net’ of protection for children and women.
- *Critical poverty or family economic crisis.* Extreme poverty or economic crisis, such as the loss of a primary breadwinner, can make families resort to desperate measures to support themselves, including selling their children to traffickers.
- *Separation from the family.* When children are separated from their caregivers due to abandonment, running away, child labour, civil conflict or other reasons, they are highly vulnerable to harm and exploitation.
- *Violence.* Physical, sexual and psychological violence in the home, school, community or workplace increase the vulnerability of both children and women.

- *Humanitarian crisis.* War and natural disasters such as earthquakes damage family and community integrity, leaving children and women without protection.
- *Worst forms of child labour.* Children who are already in exploitative or harmful labour are particularly vulnerable to additional exploitation, as well as sexual and physical abuse.
- *Children and women with special needs.* Those who suffer from physical or mental challenges or psychological problems are easy victims for traffickers, abusers and exploiters.
- *Traditional marriage customs.* Child marriage and forced marriage often place girls and women in vulnerable situations.
- *Greed.* Excessive selfish desire for money, land, houses and consumer goods can lead families, community members and officials to sacrifice children and women to traffickers and exploiters.

### **Are boys also victims of trafficking?**

Yes. While few boys are trafficked for commercial sexual exploitation purposes, many boys are trafficked for other worst forms of child labour, including sweatshop labour, agriculture, begging, organ removal and enrolment in armed forces. The causes of vulnerability for boys differ in some ways from the causes for girls. Boys are more liable to be placed in labour situations away from their families and are more liable to run away from home. Because people often think that boys can 'take care of themselves', many people underestimate the harm that can come to them and caregivers and judicial authorities often do not understand their specific needs for recovery and social integration.



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Family dysfunction and separation from parents make children highly vulnerable to harm and exploitation.



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A girl in a cabin restaurant in Pokhara.



## THE TRAFFICKING CONTEXT IN NEPAL

## PART 2.

Nepal's trafficking situation is rapidly changing. Fifteen years ago, almost all of the trafficking of Nepali women and children was to India. Only a few were trafficked to other parts of the world or within the country. Today, the picture of trafficking is more complex, and more difficult to address. There are three primary areas of trafficking which are a concern for Nepal: (i) internal trafficking; (ii) trafficking to India; (iii) trafficking outside the region (primarily Gulf countries however there are reports of trafficking to Korea, the People's Republic of China and Thailand).

### INTERNAL TRAFFICKING

In the last five years, the expansion of the local sex industry has resulted in a rapid growth in the trafficking of women and children for prostitution inside the national borders of Nepal. The number of persons internally trafficked may exceed the number trafficked persons outside the country. The majority of persons trafficked into local commercial sexual exploitation are children, some as young as 8 or 9 years of age. Because of the significance of this new phenomenon, the third part of this document is dedicated to the emerging entertainment and sex industries, and the trafficking and exploitation that have accompanied them.

### TRAFFICKING TO INDIA

#### **For what purposes are women and children trafficked to India?**

The majority of persons trafficked from Nepal to India of which we are aware are women and adolescent girls trafficked for sexual exploitation purposes. Young boys between the ages of 8 and 16 are trafficked to Mumbai and Delhi to work in *jari* embroidery factories, garment factories, *bidi* factories, metal workshops, agriculture and other forms of sweatshop labour.<sup>8</sup> Until recently, many girl children were trafficked to work in Indian circuses, although interventions have today almost ended the practice. Although there are insufficient formal data, informal reports suggest that Nepali girls and women are trafficked to India for exploitative domestic labour as well as for work in *bidi* factories and sweatshops.

#### **To where in India are Nepali victims trafficked?**

Children and women have long been trafficked from Nepal to India for sex work purposes. Until a few years ago, the primary destinations of victims were the large brothel areas in Mumbai, Kolkata and Delhi. Today, the traditional brothel communities such as Kamathipura (Mumbai) and Sonagachi (Kolkata) are disintegrating. This is due to pressure from law enforcement, stronger legislation in India, and a change in the habits of the

clients – who now access sex workers through other means, such as in dance bars and hotels, or by mobile phone. Many of the brothel owners in India are leaving the old brothel areas and establishing their businesses in suburban areas of the large cities, in smaller cities such as Pune and Siliguri, and at the hubs of India's major transportation routes.<sup>9</sup> Because brothels are more hidden than they were before, it is very difficult to identify the locations of trafficked Nepali women and children.

#### **How many persons are trafficked to India each year?**

We don't know the exact number. Estimates range from 7,000 to 12,000 per year, but those are only guesses.<sup>10</sup> Trafficking and exploitation are illegal businesses, and traffickers and exploiters do their best to stay hidden. There is no current research to tell us where the new trafficking destinations in India are, so the present number of trafficked Nepali women and children in India cannot be counted. Likely, most women and children are trafficked from Nepal across its open border with India, and not through formal check posts. Thus, we cannot estimate the number of trafficked persons by counting the number of persons intercepted at check posts. More research is necessary to reliably determine the number of persons trafficked to India.

#### **Is the number of persons trafficked to India increasing?**

Again, we don't know. However, some key persons in India suggest that the number has not greatly increased.<sup>11</sup> This is for three reasons: 1) as above, the collapse of the primary brothel

**'After I get infected with HIV/AIDS, I will wear yellow clothes and go and live in the jungle'**  
(Yellow clothes are associated with sanyas, giving up of worldly possessions.)

**'I think I will be infected with many diseases?'**

*Quotes from minors working in Thamel massage parlours, Oct 09*

'markets' where Nepali traffickers sell their victims; 2) now traffickers can make easier money (and take less risks) by trafficking victims within the country to Nepal's emerging sex industry; and 3) traffickers have diverted some of the girls towards Gulf countries.

#### **What is the situation of those women and children?**

After entering sexual exploitation in India, for the majority of women and children there is only a future of suffering, social exclusion and illness. Of the thousands of Nepali women and children in commercial sex exploitation in India, probably less than 200 are rescued and returned to Nepal each year.<sup>12</sup> Research on formerly-trafficked Nepali sex workers in India has shown that very few return to Nepal of their own volition.<sup>13</sup> Most remain in India for the rest of their lives. Sex work in India is a life of sexual abuse, physical violence, social ostracism and psychological duress. Above all are disease and life-long illness. In Mumbai, for example, nearly 45% of the sex

workers are HIV positive.<sup>14</sup> This means that nearly one of every two women or children trafficked from Nepal to Mumbai will eventually suffer from HIV/AIDS. In a 2007 study, the percentage of repatriated Nepali sex-trafficked girls and women who tested positive for HIV was 38%.<sup>15</sup>

### **Who are the perpetrators?**

The primary perpetrators are the brothel owners who make large money selling the bodies of enslaved women and children for years and years. The 'trafficker' who supplies victims to the brothel owners is a smaller figure. Research has shown that the brothel owner makes up to 20 times more 'profit' than the trafficker for each trafficked person.<sup>16</sup> Unfortunately, most legislation and law enforcement in Nepal and India have focused on the trafficker and not the brothel owner. Customers are also major perpetrators – for if there is no demand for sex workers, there would be no supply. Recently, Nepal has enacted legislation punishing clients for engaging in sex with sex workers. However, Nepal does not have explicit laws that make it a greater offence for clients to engage in sex with trafficked persons.

## **TRAFFICKING OUTSIDE THE REGION**

### **What are the destinations outside the region?**

For a number of years, Nepali children and especially women have been trafficked to countries outside the region. In earlier years, out-region trafficking was primarily noted to Hong Kong,

### **Nepali men are also trafficking victims**

Many Nepali men voluntarily travel to Malaysia, the Gulf states, Israel and South Korea for labour. After arrival, some face conditions of forced labour, including non-payment of wages and physical abuse. Some end up in debt bondage, unable to repay the exorbitant fees charged by manpower agents in Nepal. Other Nepali men have been trafficked into forced labour in Iraq after being promised work in the U.A.E. or Kuwait.

Malaysia, Korea and Japan, with some trafficking to the Gulf states.<sup>17</sup> Although some incidents have occurred, Western countries have never been a primary destination of Nepali trafficked persons. As with trafficking to India, the picture of out-region trafficking has recently changed. The Gulf states, Israel, Lebanon and South Korea are now the primary out-region destinations of Nepali trafficked persons.<sup>18</sup>

### **Why are women and children trafficked to those places?**

Today, girls and women children are trafficked outside the region for commercial sexual exploitation, exploitative domestic service and other exploitative labour situations. There are reports of women being trafficked to Korea for marriage.<sup>19</sup>

### **How are victims trafficked?**

Girls and women are most often trafficked outside the region in the guise of travel for legitimate labour purposes, particularly domestic service or work in restaurants or shopping malls. Being able to leave one's own country is a universal right, guaranteed by the universal bill of rights. However, today both traffickers and exploiters, including local manpower agencies, are using labour migration as a cover for many abuses. Often, women are promised employment in situations that are not fulfilled when they arrive. They may instead be placed in poorly-paid and exploitative work situations. If they enter domestic service, because their work is inside the home and hidden from surrounding society, they are at high risk of physical and sexual abuse from the employer or others in the family. Often, they cannot leave the situation because they are indebted to the manpower agency and/or the person who has hired them. Those who flee an abusive situation find they are illegal residents and at conflict with the law, and the only alternative open to them is worse: commercial sexual exploitation. Increasingly, there is evidence that Nepali women and children are duped about their work destinations, and placed directly – and sometimes forcibly – into prostitution. It is known that traffickers frequent dance bars and cabin restaurants in the Kathmandu Valley seeking girls and women to send to the Gulf states.<sup>20</sup> Those who arrange trafficking and migration for prostitution often work in collaboration with local manpower agencies. These agencies not only benefit from the sale of the trafficked person, but often receive large amounts of money

from that person to guarantee being placed in a legitimate, well-earning job. There are presently inadequate laws or regulations in Nepal to curtail abuses by manpower agencies.

### **How many children and women are trafficked outside the region each year?**

We don't know the exact number. The number of trafficked persons among all of those who travel out of the region for employment is unknown. It is difficult to estimate what proportion end up in exploitation because victims are often reluctant to report that they have been exploited, and almost all have entered foreign countries with documents saying they will engage in legitimate employment. No formal research has been conducted on the trafficking and exploitation of Nepali migrant workers.<sup>21</sup>



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Trafficking from Nepal to destinations outside South Asia is on the rise. The Kathmandu-based sex industry was described as a "training ground" to prepare girls and women for the Gulf countries and other destinations.

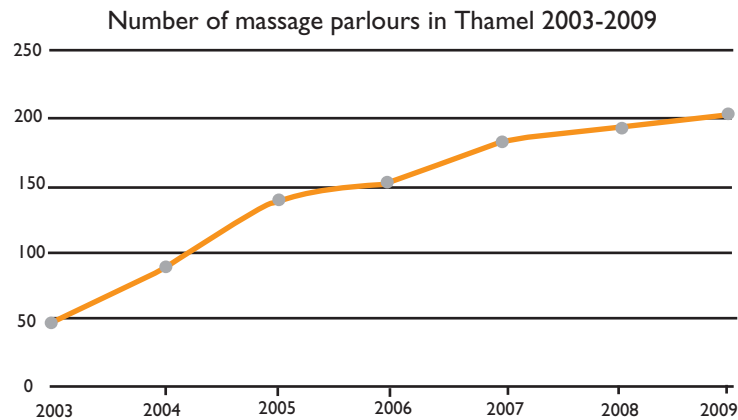


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The average age of children in the entertainment industry is going down rapidly. Social workers report children as young as 12 years old in massage parlours.

## THE ENTERTAINMENT AND SEX INDUSTRIES IN NEPAL

## PART 3.



Source: Change Nepal Internal Survey, October 2009

Today, in the Kathmandu Valley alone, there are an estimated 11,000 to 13,000 girls and women working in what is often called the 'night entertainment industry'.<sup>22</sup> From a handful of cabin restaurants, massage parlours and dance bars in the year 2000, today there are an estimated 1,000-1,200 cabin restaurants, 150-180 dance bars and over 200 massage parlours in Thamel alone. Approximately 50 *dohori* restaurants (*dohori sanjh*) provide live musical entertainment within the Valley.<sup>23</sup> The 'entertainment industry' spreads across the entire country, concentrated in urban and semi-urban centres and along transportation routes.

### Is it an entertainment industry or a sex industry?

It is both. Providing music, alcoholic beverages and dance performances is usually referred to as an entertainment industry. When these activities are used to facilitate access to sex workers, it is a sex industry. While entrepreneurs, hotel owners and the travel industry wish to portray Nepal's present entertainment sector as 'clean and respectable', the income derived from the entertainment sector comes from men who wish to be personally entertained by girls and women, as waitresses, temporary social partners and sex partners. As one cabin restaurant owner recently said 'without the girls and women, we would have no business.'

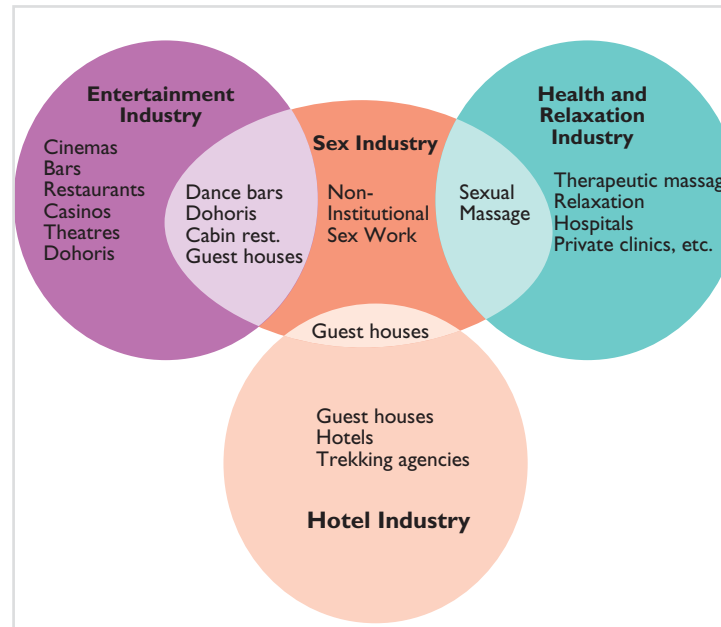
It is important to note that all girls and women in the entertainment sector are not sex workers. Studies indicate that only one third to one half of girls and women conduct sex work (although this figure may be low, as many deny doing so).<sup>24</sup> In the ActionAid 2004 study, 37% of cabin restaurant workers stated that their activities included either masturbation, oral sex or going with the customers for sex. However, even those who do not sell sex are placed in situations in which they are subjected to sexual harassment and abuse in order to please customers so they will buy food and alcohol. Among those who sell sex directly, a large proportion do so unwillingly, under coercion from their employer and/or the customer. In

the Shakti Samuha 2008 study, 73% of respondents stated that they performed 'additional duties' due to force from the employer or the customer.<sup>25</sup>

### What is the difference between sex work and a 'sex industry'?

In the past, Nepal has had sex work. Today, it has a sex industry. Before, sex work was unorganised. Sex work took place on a smaller scale and was primarily conducted by sex workers individually, from streets and wine shops (*bhatti pasals*), hotels, guest houses and brothels. A small proportion of sex workers operated in collaboration with small brothel owners, pimps and independent traffickers.

Today, the entertainment and sex industries in Nepal are rapidly becoming a complex and organised field of commerce, with a large infrastructure of cabin restaurants, dance bars and massage parlours. They generate large profits for numerous entrepreneurs (although like any industry, it has its ups and downs), and support multiple auxiliary businesses such as restaurants, liquor shops, guest houses and taxi drivers. Entertainment entrepreneurs associations have been established. The government and entrepreneurs associations are working to establish regulations and codes of conduct for the night entertainment sector (although the workers have not yet participated in this activity). However, legislation to protect entertainment workers and policies to guide and regulate the development of the industry are still lacking.



### How many children are in the industry?

International law, as well as Nepal's Human Trafficking and Transportation (Control) Act 2007 places the age of a child as under the age of 18 years, although the Nepal Children's Act 1992 places the age at below 16. A draft Child Rights Promotion and Protection) Act, 2064 (2007) defines a child as a person below 18 years of age although this piece of legislation is still in the legislative process at the time of this



writing. Studies indicate that between 16% and 33% of females in the industry are under the age of 18.<sup>26</sup> A government report indicated that children as young as 12 years old were involved in the industry.<sup>27</sup> Local non-governmental organisations report having come across 11 year-old children involved in commercial sexual exploitation. Research also indicates that nearly one half enter the industry before they reach the age of 18.<sup>28</sup>

Informal sources state that the average age of girls entering the entertainment industry is rapidly decreasing. Commercial sexual exploitation of children existed in the old sex industry as it does in the new industry. In 1998, in a survey of sex work and commercial sexual exploitation in 40 districts, it was found that nearly one third of those in commercial sexual exploitation were under the age of 18.<sup>29</sup> However the age average tends to decrease in Kathmandu valley. It has been observed that girls are coached to increase their age especially when police or social workers ask.

“From my experience, since customers prefer young and pretty girls, the demand for them is increasing. As a result, the tendency to lure and deceive young girls by promising good jobs is on the rise. I have met with girls as young as 13 years of age working in this sector and feel sad about it”.

*Parbati Subedi, Psychosocial counsellor, Change Nepal*

### **How did the present industry arise?**

Twenty years ago, there were no red light areas in urban areas (with the notable exception of a short-lived area outside the city of Nepalgunj, which was dissolved under public pressure in the late 1990s). At that time, there were no cabin restaurants or dance bars, and only a few massage parlours in the tourist areas, which provided genuine massage to weary foreign tourists. Nepal is one of the few countries in South Asia (along with only Bhutan and the Maldives) that has never had a full-fledged red light area. Sex work has long existed in the country, however. Sex workers were found on the streets, through connections in small hotels and drinking establishments, and at roadside stops along the transportation routes.<sup>30</sup> A few brothels, often offering gambling as well as access to sex, were found in many urban and semi-urban areas, although these brothels were exceedingly discreet and accessible to customers only through personal connections, pimps and other intermediaries such as taxi drivers.

As well, until recently, Nepal has never had a great problem of internal trafficking for commercial sexual exploitation purposes. Due to the openness and casualness of the local sex industry, there was no place for confined, forced prostitution.

Nepal's 11-year conflict contributed to the rise of the present sex industry. This occurred in several ways. The conflict resulted in massive dislocation of rural populations and their

The table below presents the age and caste/ethnicity of the women and girls who received individual counseling from Terre des hommes Foundation and its partners (Change Nepal, TPO, Saath Saath) between December 2008 and October 2009. Of the total of 63 persons, two thirds (68%) were children below the age of 18 while only three percent were above 25 years old. By caste/ethnicity, more than half (51%) were from Tamang caste followed by Brahmin/Chhetri (22%) and Magar (8%). It has been observed however that Dalit girls and women tend to assume “upper caste” identities.

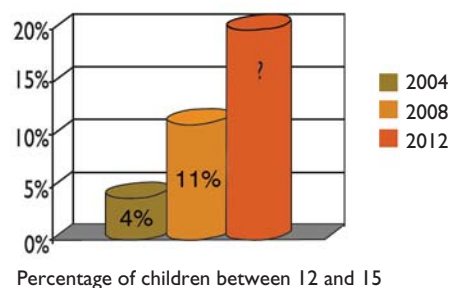
**Table 1. Background characteristics of the service receivers**

<b>Background</b>	<b>Number</b>	<b>Percentage</b>
<b>Age</b>		
Below 15	2	3.2
15-17	41	65.1
18-24	17	27.0
25 and above	2	3.2
Not stated	1	1.6
<b>Caste/ Ethnicity</b>		
Tamang	32	50.8
Brahmin/Chhetri	14	22.2
Magar	5	7.9
Rai	3	4.8
Newar	4	6.3
Other *	3	4.8
Not stated	2	3.2
<b>Total</b>	<b>63</b>	<b>100</b>

\* Tharu/Majhi/Pariyar

**Source:** Tdh Psychosocial Initiative; Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009.

Children between 12 and 15 years old  
in the Kathmandu Sex industry



Sources: ActionAid Nepal. (2004). Plight of Cabin Keepers. Kathmandu: ActionAid Nepal; Shakti Samuha (2008). A Study on the Condition of Slavery among Women and Girls Employed in the Restaurants and Massage Parlours of Kathmandu Valley. Kathmandu: Shakti Samuha.

migration to urban centres. The conflict exacerbated rural and urban poverty, increasing the need and willingness of the poor to enter employment that they would not have considered before, such as prostitution. And the conflict resulted in the death or out-migration of thousands of men and boys, creating increased pressure upon girls and women to support impoverished families – and many of these entered commercial sexual exploitation due to lack of other opportunities.<sup>31</sup>

The rise of the sex industry also accompanied the deterioration of the carpet, garment and pashmina industries in Nepal. Lack

of planning and regulation, absence of quality control, and the global economic downturn resulted in the closure or roll-back of many workshops that employed young females who had migrated from the countryside. Unable to generate income in their home villages and unable to find remunerative employment in the cities, many girls and women entered commercial sexual exploitation.

A third factor influencing the rise of the sex industry is rapidly-changing social norms. Today, young people in urban areas

### Are boys and men involved in the entertainment industry?

Few compared to girls and women. Male prostitution does exist in the Kathmandu Valley, but customers are primarily contacted in public areas such as parks or are referred to male sex workers through peers and pimps. A few bars cater to males who have sex with males (MSMs), out of which some young adult prostitutes solicit customers. However, many boys, particularly children in a street situation, are subject to non-commercial sexual abuse, primarily by local males. As well, MSMs, both those who dress in male attire and those who dress in female attire, are subject to considerable police harassment, as are the girls and women of the entertainment industry.

increasingly engage in personal social behaviours, such as having 'boyfriends' or 'girlfriends', going on dates and having premarital sexual relationships. Although frequently blamed on the influence of Western media, this change has come about primarily through the influence of Indian film, television and music on Nepali youth. Although traditional customs still make it difficult for young men to have sex with young women who are not sex workers, male youth are increasingly engaging in evenings of night entertainment and sex with sex workers as a social activity. Accompanying the changing mores for boys and young men are changing mores for older men, particularly the phenomenon of adultery. The majority of customers in the Kathmandu Valley's sex industry are not young single men, but married men between the ages of 36 and 50.<sup>32</sup>

### **Is sex work illegal in Nepal?**

No. The act of prostitution itself is not illegal, and sex work has been recognized as a form of work by the Supreme Court.<sup>33</sup> However, domestic legislation and law enforcement are not consistent and occasionally contravene constitutional law. While domestic law does not expressly forbid voluntary sex work, the Interim Constitution allows the government to impose restrictions on an act that may be 'contrary to public health and morality', and thus provides the government with the option of taking action against sex workers.<sup>34</sup> The law also discourages sex work by forbidding any person to engage another in prostitution – which would include employers encouraging girls and women to go out with

customers – and forbidding customers to have sex with sex workers.<sup>35</sup> Although the law has not expressly criminalized voluntary sex work, sex workers have been harassed and abused by police. Police personnel commonly arrest entertainment workers, accuse them of disturbing the peace and demonstrating obscenity, and prosecute them under the legislation commonly known as the 'Public Offence Act', properly called the 'Some Public (Offences and Penalties) Act, 2027 (1970)'.<sup>36</sup>

### A 14-year-old Girl Disappears

Shanti, a young girl of just 14 years of age, seemed to be very sad and showed signs of an inferiority complex, when we met her at the massage parlour where she was working. She worried about her job. She suffered socially due to the conflict she experienced within her family. Sometimes she was suffering from an irregular menstrual cycle, and her trauma was caused by sexual abuse and touching of sensitive and private areas, which she was unable to express to others. She was very sad because her own mother had sent her to this job, and thus she felt 'forced to work' in the massage parlour. After four counseling sessions, she was to some extent satisfied with the counseling. She assured us that she would come again if she needed counseling as she mentioned that the counseling had reduced some of her problems. She felt there had been some changes. 'There is someone who listens to my sadness and wants to help me'. She would express her emotions through crying. Her self-confidence improved during the counseling sessions. In the initial counseling session, she felt helpless and used to say 'I can't do anything'. As the sessions continued, she slowly started to increase her confidence level and her crying reduced. It was visible that she was improving through the sessions. However, now the owner has moved his business establishment and there is no news of her whereabouts. She has disappeared.

**Source:** Case Study 2 (PS 006/09), *Tdh Psychosocial Initiative; Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009.*



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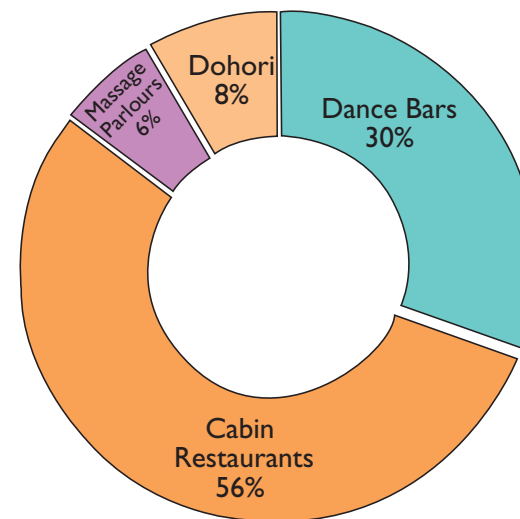
## PROFILE OF THE ENTERTAINMENT AND SEX INDUSTRIES IN THE KATHMANDU VALLEY

## PART 4.

The venues of Nepal's modern entertainment and sex industries are spread throughout the Kathmandu Valley, as well as urban areas, local tourist destinations and transportation routes throughout the country. As noted above, all those who work in the entertainment industry are not sex workers. As well, all sex workers do not solicit customers through the venues of the entertainment industry. Sex workers also work from the street, local *bhatti pasals*, residential settlements and squatter areas, as well as soliciting customers through mobile phone.<sup>37</sup>

Although cabin restaurants, dohori restaurants (dohoris) and dance bars are found throughout the Kathmandu Valley, they are generally concentrated in specific areas. Many establishments are found around the Ring Road, particularly near transportation hubs such as bus parks and truck rest stops. The primary concentrations of entertainment establishments around the Ring Road are found in the Koteswor-Singamangal area, around Kalanki, and in the Balaju-Gongabu area. Old Baneswor was one of the first areas in the Valley with a concentration of dance bars and cabin restaurants. The tourist area of Thamel contains many dance bars, cabin restaurants and dohoris. Thamel is the only area in the city with a high concentration of massage parlours. Most massage parlours provide sexual services in the guise of providing massage to foreign tourists.

Women and Girls Employed in the Kathmandu Entertainment Industry



Source: The situation analysis conducted for this document in 2009 estimates approximately 6,000 to 7,200 women and girls working in cabin restaurants, 3,400 to 4,000 in dance bars, 900 to 1,100 in dohori restaurants, and 750 to 850 in massage parlours, totalling approximately 11,000 to 13,000 women and girls. Frederick, J. (2009). Terre des hommes Foundation, Situation Analysis.

The maze of alleys south of Sundhara has long been an area of small guest houses for Nepali, Indian and Western tourists. In the last few years, the area has filled with *bhatti pasals*, liquor stores, cabin restaurants and a few dance bars and dohoris.

A 'red light district' can be defined as a confined geographical area in which one of the primary sources of income is derived from sex work. By this definition, the Kathmandu Valley presently has a red light district: the large complex of streets, alleys, shops and guest houses adjoining Gongabu Bus Park on the north side of Kathmandu. Gongabu Bus Park is the primary transportation hub in the Valley, from which buses ply to many parts of the country. Outside the bus park on the Ring Road, minibuses carry local citizens throughout the Valley. This transportation hub provides lodging, food services and entertainment for travellers, relative anonymity for local customers, and has developed into a red light district. Dozens of guest houses are present, with numerous cabin restaurants, dance bars and dohoris, as well as small local wine shops. Almost all of the restaurants and guest houses sell liquor. Unlike the other areas with a concentration of entertainment establishments, this area is frequented by pimps who solicit customers for the guest houses and also provide access to girls and women.

### THE VENUES

The situation analysis conducted for this document in 2009 estimates approximately 6,000 to 7,200 girls and women

working in cabin restaurants, 3,400 to 4,000 in dance bars, 900 to 1,100 in dohori restaurants, and 750 to 850 in massage parlours, totalling approximately 11,000 to 13,000 girls and women.

### Cabin restaurants

The majority of cabin restaurants are small establishments, usually only a room containing a front counter and several plywood 'cabins', each containing a table and several chairs. Cabin restaurants advertise their services through their signboards – which state 'with cabin' – and often by small multi-coloured lights around the front window. In most parts



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of the Valley, cabin restaurants are closed to the outside, although in Gongabu many are open to the street, similar to the traditional *bhatti pasal*. In the Gongabu area, many 'cabin restaurants' are simple, working-class *bhatti pasals* with partitions placed around the tables.

Cabin restaurants usually have three or more waitresses, who wait by the front counter for customers to enter. In Gongabu, girls and women may beckon to customers from the door. Customers come to cabin restaurants both singly and in groups. The purpose of the cabin restaurant is to provide the customer with privacy in which he can be entertained by the waitress. Entertainment with girls and women may range from simply conversation to kissing and touching, to masturbation or oral sex. The agenda of the waitresses is to encourage the customer to buy alcohol and food at inflated prices, and in some cases, to pay for sexual favours. While most cabin restaurants have a food and drinks menu, many do not have a kitchen. Food is purchased at small nearby restaurants.

The atmosphere of cabin restaurants is usually private and secretive, with the customers and their waitress companions hidden from view. In many, there are one or two more closed cabins in the corner where manual and oral sex can take place. Some cabin restaurants have an attached or nearby room where customers can take girls or women for sexual intercourse. Most often, if customers desire sexual intercourse, the girls and women take them to nearby guest houses.

If a customer is familiar with the venue and the waitresses, he may take a 'regular' girl to his cubicle. In some cases, customers choose which girl they would like, and in other cases the waitresses impose themselves upon the customers. The customer bargains for the cost of sex with the girl or woman. Payment for liquor, food and sex is provided to the proprietor at the counter. The waitress may also receive additional money as well as tips from the customer.

### **Dohori restaurants**

Dohori establishments are venues in which customers are entertained by Nepali music and dance, while consuming food and alcoholic beverages. Dohoris have a long history in Nepal and originally were a venue where traditional male and female duet songs were performed. Today, dohoris present traditional duets as well as more modern Nepali songs accompanied by electric instruments and male and female dancers. A number of dohoris provide 'family' entertainment and are frequented by adults and their children for celebrations such as birthdays. However, the majority are directed primarily at male customers who seek both music and female companionship.

Unlike cabin restaurants, in dohoris the customers sit in the open, at tables scattered around a small stage and dance floor. The waitresses usually wear *saris* or traditional dress. The atmosphere is relaxed and convivial. While male customers consume alcohol and enjoy dancing in groups after they are inebriated, they are generally well-mannered. Sex does not

usually take place in dohoris, although customers may make arrangements with waitresses to meet for sex after their working hours.



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### **Dance bars**

While some dance bars may contain ‘cabins’, they are distinguished from cabin restaurants by providing customers with the entertainment of girls and women dancing – sometimes in scanty apparel, sometimes nude – to modern Bollywood music. The Nepal dance bar is descended from the long-established dance bars of Mumbai, India, as well as taking some modern attributes, such as nude dancing and ‘shower

performances’, from the dance bars of Bangkok, Thailand.

As in dohoris and cabin restaurants, waitresses supplement their salaries by receiving a proportion of the proceeds from the alcohol and food purchased by the customers. They sit with the customers, smoke and drink with them, and customers engage in sexual words and touching. Customers may make appointments to meet waitresses for sex after working hours.

Dance bars are generally a little more ‘upscale’ than dohoris or particularly cabin restaurants. Food and beverages cost more, and customers are usually more affluent, with a higher proportion of younger men than is found in other establishments. Unlike dohoris, the customers in dance bars are frequently more unruly when drunk, more likely to sexually harass the waitresses, and more likely to get into fights.

### **Massage parlours**

Almost all massage parlours are concentrated in the Thamel tourist area, although few cater to tourists. Massage parlours are usually grouped with cabin restaurants, dohoris and dance bars as ‘entertainment’ venues. However, massage parlours cannot properly be classified as part of the ‘entertainment’ industry. Massage parlours provide neither entertainment nor food, but are intended to provide traditional health services, and many advertise the provision of ‘traditional ayurvedic massage’. As well, unlike the other establishments, their purpose is to directly provide sex on the premises. Customers are



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provided with masturbation, oral sex or intercourse. Although the majority are in the business of providing sexual services, there are a small number of massage parlours which only provide non-sexual massage.

Massage parlours are divided into rooms or cabins, each provided with a bed. Some are small flats with an entrance chamber and small rooms where sexual services are provided, others are large rooms with semi-private areas separated by plywood 'cabins' or only curtains. The customer selects a masseuse upon arrival, and makes monetary arrangements with the proprietor and girl or woman before being escorted to one of the rooms.

Unlike the above mentioned venues, the atmosphere in massage parlours is not convivial, and customers come for sex, and not music, food or social interaction. The girls and women earn much less than those found in other venues, as they have no access to income from customer purchases of food and drink, and are dependent solely on the sex they provide customers. There are informal reports from local non-governmental organisations that some massage parlours are locked premises, open only to known customers, and provide the services of young children. Some of the girls working at massage parlours take customers to guest houses in the evenings.

### **Guest houses**

Guest houses, or 'lodges', do not provide entertainment, but are included here because they are an integral part of the current sex industry. They are the primary venues to which customers take girls and women from cabin restaurants, dohoris and dance bars for sex. Throughout the Kathmandu Valley, guest houses are found in close proximity to cabin restaurants, dance bars and dohoris. Sex workers operating out of these venues, as well as sex workers operating from the street, *bhatti pasals* and other venues, utilize guest house rooms on a short-time basis to service customers. While all guest houses do not provide rooms for sex workers and customers, for many prostitution is the primary source of income. Some guest houses have sex workers in residence, and many will arrange sex workers for customers on request.

### **THE GIRLS AND WOMEN**

There are approximately 11,000 to 13,000 girls and women working in the entertainment sector in the Kathmandu Valley. The majority are under 25 years of age, and as many as one third are under the age of 18.<sup>38</sup> More than one half of the girls and women are from *janajati* communities, and the majority of those are from the Tamang ethnic group. A relatively high percentage are from Chettri and Brahmin communities, between 35% and 40%, although this may not be a reliable figure.<sup>39</sup> Relatively few are from *dalit* or other communities but as mentioned above we know that Dalit girls and women tend to be underreported.<sup>40</sup>

Most of these girls and women come from outside the Kathmandu Valley, although many have resided in the Valley for years, working in the carpet, garment and pashmina industries. The majority of the girls and women are from the districts surrounding the Kathmandu Valley, including Sindhupalchowk, Kavrepalanchowk, Makwanpur and Nuwakot<sup>41</sup> – the same districts that are primary sources of children trafficked into prostitution in India.

### **Poverty and lack of alternatives**

Most of the girls and women come from farming families, and nearly one half have come to the city in flight from poverty. Nearly three quarters state that the reasons for working in their present occupation are economic problems coupled with lack of alternative employment.<sup>42</sup> Most regret entering the profession, and almost all would advise others not to do so.<sup>43</sup> While most would like to leave the entertainment industry, there are very few other jobs which could provide even a fraction of the salary they receive.

### **Lack of education**

These girls and women are poorly educated – approximately one third have never been to school. More than half have not attended past primary level.<sup>44</sup> The majority of girls and women state they can't find other employment due to their poor education.



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### **The hidden children**

In the flurry of media coverage, judicial concern, regulation and legislation regarding Nepal's emerging entertainment and sex industry, thousands of persons go unnoticed: the small children of the entertainment workers. There is approximately one child for every three entertainment workers in the Kathmandu Valley, as many as 3,500 to 5,000 children. Because most of the workers are under 25, many of these children are under the ages of 7 or 8 years.

### **Unsupported by husbands**

Absentee husbands are a significant feature in the lives of the girls and women in the entertainment industry. Although nearly one half of the girls and women are married, very few live with their husbands.<sup>45</sup> Most entertainment workers live with their friends, and fewer with family members. In interviews, girls and women frequently mention abandonment, bigamy, alcoholism and domestic violence as reasons for separating from their husbands.<sup>46</sup>

Nepal legislation does not punish the act of abandoning a wife, and as a result, many married women are abandoned by their husbands,<sup>47</sup> frequently when the men take a second wife.<sup>48</sup>



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Often, abandonment results in women being unwelcome in or evicted from the household by in-laws, often with children in hand. For many women, returning to their own parents is not an option, and they are left with no choice other than to undertake sex work.

### **Supporting children**

While husbands are absent, children are present. In interviews, many entertainment workers have stated that the primary reason for entering the occupation was to provide for their children, in the absence of a supporting husband. Although most people think of entertainment workers as 'independent women', a large proportion are working to support children in their care. Of all ever-married girls and women, approximately two thirds have one or more children.<sup>49</sup> Although most entertainment workers state that the highest priority for the use of their income is for household food and rent, using their income for their children's education is a low priority.<sup>50</sup> As entertainment workers work late hours, child care is a primary concern.

### **THE CUSTOMERS**

The customers for the entertainment industry are primarily those with access to disposable income. The owners of the dance bars, dohoris and cabin restaurants earn their revenue from the sale of alcohol and snacks. The prices for a bottle of beer or a plate of 'fruit salad' (an ubiquitous dish in cabin

restaurants) are highly inflated. However, the customers generally understand that this expenditure includes the right to watch female entertainers, and talk with and touch the waitresses – what in the Bangkok bar scene is called ‘groping rights’. An evening in a dance bar, with drinks for one man and his ‘hostess’ may cost several thousand rupees, half the monthly income of a working-class labourer.

The majority of customers are small businessmen, government service holders, internal migrants, and those who have recently made money in the few lucrative pockets of Nepal’s fragile economy, such as the overseas manpower industry or real estate.<sup>51</sup> Army men and police are frequent visitors to entertainment establishments. Many of the numerous cabin restaurants of the Gongabu Bus Park area are lower-scale than those in other parts of the Kathmandu Valley, and these are frequented by men with somewhat less income, including men who have recently returned from overseas labour.

The customers are almost entirely male and usually frequent entertainment venues with their friends. The vast majority are Nepali, and few are from outside the country. A few venues cater to Indian customers, but customers from outside the region are rare. Some of the dohori restaurants cater to families as well as male clientele. Research and interviews indicate that the great majority of customers are in their 30s and 40s and almost all are married.<sup>52</sup> Many are regular customers who frequent a particular establishment. Younger men, including

college students, also go to entertainment venues, but due to their limited income, usually only go with their friends on special occasions.

While some men visit entertainment venues with the purpose of finding a sexual partner, the majority come to drink and take enjoyment with their friends in sexually-charged environments. In this respect, these ‘for-men-only’ entertainment venues are similar to those in many other parts of the world, including India, Thailand and the Philippines. However, the entertainment venues in Nepal differ from those in most other parts of the world due to the great extent to which men get intoxicated and inflict verbal and physical harassment upon the waitresses. Unlike in other countries, in Nepal the establishment owners and police impose almost no restrictions on extreme drunkenness, irresponsible behaviour, or excessive verbal and physical harassment of female workers.

The owners of most (though not all) massage parlours earn their income from the direct sale of sex. As sex in these establishments may cost from NPR 500 to 1,500, the clientele of massage parlours are from approximately the same economic and social strata as those of other entertainment venues: married men with disposable incomes. Poorer men who seek sexual partners avail themselves of sex workers from the street, *bhatti pasals* or other lower-priced venues.

## PROCURING SEX IN THE ENTERTAINMENT INDUSTRY

Nepal's entertainment industry provides means by which sexual services can be obtained. However, not all females working in the entertainment industry conduct sex work and not all men who seek entertainment also seek sex partners. Cabin restaurants, dance bars and dohoris can be considered 'sex access points' as well as entertainment establishments.

In almost all cases, customers are directly solicited for sex by the female sex workers themselves. In cabin restaurants, this is often done by code phrases such as 'Do you want fresh meat?' or 'Would you like to go upstairs?' In massage parlours, sexual activities are not solicited, but simply agreed upon. The customer usually bargains with the girl or woman and/or the owner for the acts of oral sex, masturbation or intercourse, and pays in advance. In the other entertainment venues, the sexual act and its price are usually determined directly with the girl or woman.

In cabin restaurants, owners may or may not receive a share of the payment for sex. If sex is conducted on the premises or if the owner rents a nearby room for sexual activities, he/she usually receive a share of the income. In this case, the fee may be paid to the owner or to the girl or woman.

In general, the owners of dance bars and dohoris do not directly receive a share of a girl or woman's income from sex. However,

owners and floor managers may facilitate the connection of girls or women with customers upon demand, particularly if the customer is seeking a particular individual. At the same time, many girls and women have reported that owners coerce them into going for sex with customers.<sup>53</sup> It appears that this is primarily to maintain 'good customer relations' – i.e., to increase customers' purchase of food and alcohol – rather than to directly benefit from the sex workers' income.

The girls and women who are sex workers make appointments on the premises and maintain contact with clients primarily through mobile phone, and sex work is usually conducted after working hours. The owners of dance bars and dohoris frequently complain about their waitresses soliciting through cell phones, and making excuses to leave work early so that they can meet clients. The system of 'bar fines' as is used in Thailand – in which the customer pays a fixed fee to the establishment for taking a girl from the premises during working hours – has yet to be established in Nepal.

Although there are numerous mechanisms to procure sex workers in the present sex industry, direct pimping on the street is rare, except in the Gongabu Bus Park area. Here, male children will ask passersby if they need rooms or if they need girls. In Thamel, street hustlers have in recent years added 'girls' to the menu of 'hashish', 'change money' and 'brown sugar' which they offer foreign tourists.



Most pimping appears to be conducted by other females: older women who are more experienced in the trade and who maintain a form of maternal control over younger girls. These women 'leaders' – often the same persons who have brought the girls from the countryside – may exert control over several girls, providing them with rooms, taking them shopping and helping them if they have problems with owners, clients or police. They are sometimes described as “gatekeepers”.

As in most parts of the world, taxi drivers are procurers of sex workers for customers, and for many during evening hours, this is a significant supplement to their income. Throughout the Kathmandu Valley, lodges and guest houses provide contact with sex workers on request. This is conducted discretely, usually after the customer has rented a room, or arranged by telephone before the customer arrives.<sup>54</sup>

### THE ECONOMICS OF THE SEX INDUSTRY

There is no clear profile of the owners of entertainment establishments that provide sexual services, although interviews indicate that most are from outside the Kathmandu Valley. Many are from the districts surrounding the Kathmandu Valley, from which most of the girls also come. Approximately 80% of the owners are men.<sup>55</sup> Women owners are often former sex workers. Many own more than one establishment, and shift the girls and women around between establishments, as customers prefer to frequent the same venue but desire to see new faces and bodies.

For many entrepreneurs, the sex industry is lucrative. At the same time, in the last few years the proliferation of dance bars, cabin restaurants and dohoris appears to exceed the number of available clients, and many owners complain of inadequate income. The government's decision in 2008 to close entertainment establishments at 11 p.m. resulted in a short spate of protests. Although the owners – with the support of journalists and rights advocates – said that the decision was an abuse of workers' rights<sup>56</sup> and free enterprise, it appears that the protests were organised by owners primarily due to concern for their revenues. Notably, there were relatively few protests by the female entertainment workers themselves, many of whom stated that they were happy to be released from working overtime without payment.

The workers, in addition to their salaries, receive a small percentage of the sale of alcohol and food to customers. Information gathered from local non-governmental organisations suggests that the younger the girl the less 'salary' is being paid. Many young girls working in massage parlours reported a salary of NPR 5,000 per month. The majority of profit from sex work, inflated cost of alcohol and food accrues to the owners. In a 2008 study, more than half of the owners interviewed said they earned a daily gross income of NPR 1,000 to 10,000, or between NPR 30,000 and 300,000 per month. Notably, nearly one quarter earned a gross income of over NPR 31,000 per day, or over NPR 930,000 per month.<sup>57</sup>

Nepal's entertainment and sex industries support a number of peripheral businesses and workers. Landlords often charge higher rents for entertainment venues than for other businesses, particularly in high-rent areas such as Thamel. Few cabin restaurants have kitchens, but depend on nearby restaurants to cook snacks and meals if the customers desire them. Liquor shops, *bhatti pasals* and cigarette vendors benefit from the flow of customers late into the evening. Casinos benefit from the added attraction of sex for Indian tourists. Numerous small persons, including taxi drivers, street vendors and pimps, draw income from the growing industry. On the black side of the economy, interviews with both entertainment workers and owners indicate that police, local hoodlums and youth cadres of political parties benefit from extortion and payoffs from the owners and workers of the entertainment industry.<sup>58</sup>

## SEX TOURISM

The process of developing Nepal as a sex tourist destination is an unspoken but important subject. Both international and local media have sensationalized an emergent sex tourism industry in Nepal with the usual misconception that all sex tourists (as well as all paedophiles) are Westerners. There are strong indications that Nepal is developing as a sex tourism destination for India. Informal observation in 2008 noted young Indian men flying to Kathmandu from Delhi for holidays of gambling and 'bar-hopping'.<sup>59</sup> Other sources have noted that Nepal is becoming a destination for sex tourists from Bangladesh.<sup>60</sup> Some package tours for young males, promoted

by Indian travel agents and local casinos, hotels and (in the past) the Nepal Tourism Board have indirectly offered sex as well as gambling and mountain scenery to visitors.<sup>61</sup> Nepal Tourism Year 2011 officially targets India and China for regional tourism.

Formal data on the development of a sex tourism industry are unavailable. Government, hotel owners and casino owners are reluctant to discuss the issue. However, these stakeholders are not ignorant of the immense money that Thailand and other countries make from sex tourism, whether or not they are aware of the social and health impact of such an industry. Although covered in the local media, the growth and presence of sex tourism in Nepal has not yet been brought into public debate.

### Dirty Words

Sita (name changed), who was just 18 years old, was from Dhading. When the counsellor met with her, Sita explained that she wanted to leave the job and go abroad. She said that she had high levels of anxiety, in relation to how her family may react to her, and high feelings of humiliation and fear from her work in a massage parlour.

She used to have some behavioral problems as a result of moderate levels of alcohol abuse. She had high levels of sadness, inferiority complex and sleep disturbance. She had extreme levels of fear and worry in her work. She suffered from headaches and white water discharge (a reproductive health problem). She was experiencing trauma as a result of a high volume of “dirty words” used towards her. After 3 counseling sessions with the counselor, it was observed that she had improved a lot. In the first session, she only opened up a little, but later she found it easy to share her problems. Her self-confidence increased. The session ended nicely with both counsellor and client feeling that a lot of improvements were made. Sita left her job and returned home.

**Source:** Case Study 8, Tdh Psychosocial Initiative; *Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009.*



More than two-thirds of restaurant workers smoke cigarettes, and the majority of workers say this is a result of their job.

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## THE IMPACTS OF THE SEX INDUSTRY

## PART 5.

Nepal's entertainment industry and sex industry go hand in hand. While income from the entertainment and tourism industries could benefit many people – waitresses, taxi drivers, lodge owners, police and primarily owners – the impacts of the sex industry are a concern.

### TRAFFICKING AND PARTICIPATION IN THE ENTERTAINMENT AND SEX INDUSTRIES

A decade ago, Nepal did not have a serious concern about internal trafficking for commercial sexual exploitation. Today, it does. By international definition, the majority of those conducting sex work in the local sex industry are trafficking victims. However, it should be remembered that all those working in the entertainment industry are not sex workers, and are not considered trafficking victims unless a trafficking act took place for the purpose of exploitation.

Nearly half entered the sex industry as children, and all children who are brought into commercial sexual exploitation are usually considered trafficking victims, whether they entered willingly or not. Among those persons who entered as adults, many came into the entertainment industry hoping for a bright future in the city and did not understand that they would be conducting sex work. Thus, those who end up in sex work

are victims of fraud, deception, enticement or allurements – and are defined as trafficking victims under Nepali and international law. Research indicates that very few women are brought into the local sex industry by force or abduction.<sup>62</sup>

At the same time, a significant but unknown number of adult women enter the entertainment sector and engage in sex work willingly and knowingly, and are not victims of trafficking. Notably, as many as one third of girls and women enter of their own accord.<sup>63</sup> Many of these have previously worked in other jobs in the Kathmandu Valley, such as carpet factories, and many are married women with children, who have been abandoned by their husbands.

Studies conducted on entertainment workers indicate that more than one half enter the entertainment industry through the influence of friends (which may include “boyfriends”).<sup>64</sup> Entertainment workers themselves are the primary procurers of other girls and women for the industry, and are paid for bringing new girls to the owners.<sup>65</sup> Relatives and community members also contribute to the trafficking and procurement of girls and women.<sup>66</sup> Informal reports also indicate that sometimes girls and women are not allowed to leave the work until they find other girls to replace them, or are forced into indebtedness by owners or woman ‘leaders’, and must repay

**'My own close relatives brought me here.'**

**'If my family and the community come to know what I am doing, they will not treat me well.'**

**'I was studying and my mother called me to work in this profession.'**

*Quotes from minors working in massage parlours of Thamel, October 2009*

their debt by providing girls from their home villages.

The entertainment industry in Nepal is also the source of both trafficked persons and migratory sex workers for other countries, particularly the Gulf states and Hong Kong. Dance bars and cabin restaurants are sites of recruitment for local manpower agents as well as international traffickers seeking girls and women for overseas employment.<sup>67</sup> In some cases the women are offered overseas jobs as restaurant workers or domestic servants, and in other cases are directly offered jobs in sex work.

## **COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN**

Researchers estimate that one fifth to one third of all female workers in Nepal's entertainment and sex industry are children

– that is, persons under 18 years of age.<sup>68</sup> As many as one in 10 are between the ages of 12 and 15 years.<sup>69</sup> Significantly, nearly one half of all entertainment workers entered the industry before the age of 18.<sup>70</sup> Informal reports and interviews indicate that children as young as 12 and 13 are found in the entertainment sector, primarily in massage parlours. Domestic law is silent on the issue of commercial sexual exploitation of children. However, according to international and national law anyone who assists a child to enter prostitution is a trafficker.

Although much attention has been placed on the use of pre-pubescent and pubescent girls (those under 14 years approximately) in the entertainment sector, it appears that their numbers are not great. This likely is not a matter of criminal prudence, but more a matter of lack of demand by consumers. No study on the sexual preferences of Nepali clients has been conducted. However, research on clients of Nepali sex workers in India showed that while men considered girls 15 to 18 to be 'mature' and more desirable than women over 18, the vast majority of clients considered sex with a pre-pubescent or pubescent girl to be unnatural and reprehensible, and thought that men who did such should be severely punished.<sup>71</sup> In Nepal it is clear from all evidence that the demand for girls under the age of 18 is high, and children – particularly those of 15, 16 and 17 years – are poorly protected by Nepali law.

## PSYCHOLOGICAL AND SOCIAL IMPACT

Although in the West, sex workers may or may not bear significant social and psychological burdens, in South Asia their situation is different. For South Asian sex workers, the psychological and social impact of the profession is brutal, and usually lasts a lifetime.<sup>72</sup>

### Psychological malaise

There are no comprehensive studies on the psychological impact of sex work on girls and women in South Asia, although there are numerous reports from counsellors and psychologists, including those presently working with entertainment workers in the Kathmandu Valley.<sup>73</sup> As expected, the psychological impact of prostitution is most severe on children. Most entertainment workers presenting to counsellors in the Kathmandu Valley suffer from anxiety and depression, often coupled with guilt for pursuing what society believes is a 'bad occupation'. They often express anger and resentment at customers, employers and society in general. Insecurity and fear – from losing their jobs, being arrested by the police or being raped by customers – are commonplace.

Girls and women often present with extreme feelings of hopelessness, of being 'ruined' or 'spoiled' (Nepali *bigrieko*), and of isolation and abandonment from their homes, families and society. Some girls and women may express their feelings in behaviour that is abusive or impulsive, and others may

**'My fate is like this, it was meant for me to come here.'**

**'I should not have been spoilt ("bigrieko"), but now I am spoilt.'**

**'Will I ever get married with a wedding procession coming to take me?'**

**'I wish that nobody will come to the state that I am in now.'**

Quotes from minors working in Thamel massage parlours, Oct 2009

become reclusive and withdrawn. In extreme cases, the psychological burden of their lifestyle may lead to self-destructive behaviour, including the use of drugs, self-inflicted harm or attempted suicide. The psychological and social impact on their children, who often receive inadequate attention because their mothers must work long hours, is not known, but is of concern.

### Censure by society

While some societies are more tolerant of sex work than others, in almost every society the public attitude towards entertainment and sex workers is negative. While there are activities worldwide to change social attitudes, it is unlikely that social stigma and discrimination will end in the near future.

The table below presents the psychosocial and mental health issues reported by women/girls who received individual counseling from Terre des hommes Foundation and its partners (Change Nepal, TPO, Saath Saath) within the period Dec 08 to Oct 09. Of the total 63, more than half reported “fear from family and community”, feeling humiliation, worried, confusion, anxiety, sadness and depression were more common problems found during the counseling. More than half (51%) reported fear from their family and society followed by feeling humiliation (38%) and worried (25%) see table 2 for details.

**Table 2: Psychosocial and mental health issues reported during counseling sessions**

<b>Problems</b>	<b>Number</b>	<b>Percentage</b>
Fear from family and community	32	50.8
Feeling humiliation	24	38.1
Worried	16	25.4
Confusion	14	22.2
Anxiety	12	19.0
Low self-esteem	11	17.5
Sadness	11	17.5
Depression	10	15.9
Restlessness	6	9.5
Frustration	4	6.3
Insomnia	3	4.8
Aggression	2	3.2

**Source:** *Tdh Psychosocial Initiative; Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009*



In South Asia, once branded with derogatory words such as a *randi* or *bhalu* (the equivalents of the English words “prostitute” or “whore”) the stigma is often not removable even in older age, and is passed on to the children.<sup>74</sup>

The girls and women in Nepal’s entertainment and sex industry live under constant discrimination for their profession, ranging from landlords’ refusal to rent them rooms, to unkind remarks by shopkeepers, police and customers, to malicious gossip in their villages. When asked why they are dissatisfied with their job, girls and women in the entertainment industry frequently state the negative attitude of society as a reason.<sup>75</sup>

#### **Disagreement with parents**

Although many girls and women in the entertainment industry send money to support their families in the village, the majority do not tell their parents what they do.<sup>76</sup> The reason most commonly given is that parents would refuse to let them do the work. More than one half said that they didn’t inform their parents for fear of being disowned, losing pride or having a negative affect on the status of their parents.<sup>77</sup>

#### **‘We hate this work’**

Behind the smiles, the vast majority of girls and women in Nepal’s entertainment industry dislike the work and discourage others from joining it.<sup>78</sup> Almost all would like to change their jobs – if other jobs were available. The reason for disliking the profession is not poor wages – for many earn adequate incomes – but primarily sexual harassment and humiliation by customers, and the negative attitude of society.<sup>79</sup>

## **VIOLENCE AGAINST GIRLS AND WOMEN**

Whether or not the entertainment worker conducts sex work, the level of violence against girls and women in Nepal’s entertainment industry is extremely high. Although comparative research has not been conducted, informal observations indicate that the violence against girls and women in Nepal’s entertainment industry exceeds that of similar entertainment industries in many parts of the world, including Thailand, Hong Kong, Malaysia, UAE, India and Western Europe.<sup>80</sup>

The ‘wild stag’ entertainment setting which the owners provide to their customers – that is, alcohol, loud music and the freedom to touch the bodies of female employees – is conducive to violence against girls and women. However, in other countries such as India and Thailand, violence and harassment are controlled by the owners, managers and police, and by the manners of the customers. In the Nepal entertainment industry, owners and managers exert little or no control over their customers, police are as often perpetrators as protectors, and the manners of drunken Nepali men are very often abusive and violent. Where in other countries such persons would be evicted from the premises, in Nepal’s restaurants and bars, these persons are tolerated in order to make more money, or for fear of violence or reprisal.

#### **Insulting and humiliating treatment**

An industry which makes its money by providing men with the opportunity to freely stare at, comment upon and touch

girls' and women's bodies invites degradation and humiliation of those girls and women. The vast majority of girls and women interviewed in studies on the entertainment industry reported mistreatment by the customers, including insults and being treated like a commodity.<sup>81</sup> The girls and women noted that around drunken and rude men, they must either flirt and exchange sexual commentary with the men, or if they refuse, they are cursed or called derogatory names. In Nepal's dance bars and cabin restaurants, the number of well-mannered customers is almost nil.<sup>82</sup> Many owners contribute to this maltreatment, either by ignoring the behaviour of customers, or themselves insulting and humiliating the girls and women.<sup>83</sup>

### **Sexual harassment**

The greatest objection of entertainment workers to their profession is sexual harassment.<sup>84</sup> This can include lascivious stares, sexual comments, groping the body, unwanted kissing, and pressuring the girl or woman to provide sex. Entertainment workers' extreme objection to sexual harassment points to the exploitation that is inherent in the economic system of the entertainment industry: girls and women – and primarily owners – earn their incomes from encouraging customers to drink at inflated prices, and this encouragement is based on sexual suggestion. With no restrictions on intoxication or improper manners, this leads to sexual harassment of the workers. As with insulting and humiliating treatment, sexual harassment is fostered by the owners. They earn more by allowing customers to drink and harass their women workers, and a significant percentage sexually harass their employees as well.<sup>85</sup>

**'Who would enjoy doing such work? I am doing it out of compulsion.'**

**'Such smelly persons come and I find them repulsive, but then I think of my family problems and I keep working.'**

**'If only my mother was alive, I would have never come here.'**

Quotes from minors working in Thamel massage parlours, Oct 2009

### **Forced prostitution**

It is not known how many entertainment workers also conduct sex work. Many do not – but more significantly, many are forced to do so against their will. Almost without exception, a worker in a massage parlour must perform sexual acts whether she wants to or not. In cabin restaurants, dohoris and dance restaurants, many owners encourage or force female workers to engage in sex with customers, for that is why the customer is present. In a study of cabin restaurants, more than half of the informants stated that they are coerced by owners to conduct activities which they were unwilling to do, by threats of dismissal, harm, blackmailing or defamation.<sup>86</sup> Another study found that three quarters of female workers were forced to do additional duties, most of which comprised having sex with the customer either inside a cabin or at a guest house.<sup>87</sup>

## Rape

For many of those who conduct sex work, whether by choice or coercion, rape is a fact of life. In 2006, nearly one third of establishment-based sex workers (that is, those not including street sex workers) in the Kathmandu Valley reported being raped in the previous year.<sup>88</sup> Rape is not always conducted by physical force – many entertainment workers state that customers force them to have sex by threatening to tell their families or husbands that they are ‘prostitutes’.<sup>89</sup> Sex workers in the entertainment industry frequently report being forced into sex with numerous men in a group, after agreeing for sexual services with an individual. Gang rape – often to save the expense of hiring several sex workers – is commonly practiced by army men and groups of students.<sup>90</sup> Sex workers in Kathmandu have stated that being tricked into group sex, after the risks of contracting HIV/AIDS or getting pregnant, was the most severe problem they faced.<sup>91</sup>

## Harassment, arrest and abuse by police

With a few notable exceptions, the police are not protectors of the workers in Nepal’s entertainment industry. When asked what they needed most, one fifth of entertainment workers said they needed protection from harassment by the police.<sup>92</sup>

Throughout the world, police wield great power over the sex worker, and the police in Nepal are no exception. In Nepal, the police can legally arrest and detain any girl or woman on thin and subjective grounds of ‘public indecency’. To date, hundreds of entertainment workers in the Kathmandu Valley

## Inferiority Complex

When we first met Priti (name changed), a 17-year-old girl, she looked very worried and tense. When she came to us she seemed very low with feelings of inferiority complex, fear and worries. She was not happy about her work and worried how her family would react if they ever came to know about her work. At the same time, she was also concerned about being poor. Further to this she was also suffering from a gynecological problem that she had not been able to share with anybody earlier. In just five counseling sessions, her levels of restlessness were drastically reduced from level 10 to 0. Also, due to her personal and familial problems she scored at level 9 for fear. After the counseling sessions, she changed a lot and her level of fear also went down to 0. It was also evident after the counseling sessions that she could improve her capacity for decision making. The case was closed as she left her job, got married and returned to her village.

**Source:** Case Study 7 (PS 027/09), Tdh Psychosocial Initiative; Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009.

– many of whom were not sex workers – have been arrested, detained and fined, within their workplace and on the street while returning home from work. Often, they are unable to pay the fine or bail money, and must borrow money from owners or pimps, putting themselves into debt obligation.<sup>93</sup>

The threat of arrest gives the police the power of extortion. While there is no solid evidence of monetary extortion from entertainment workers, sexual extortion is commonplace. Rape, sex without payment, and sexual harassment by police are frequently reported by entertainment workers.<sup>94</sup>

Another serious problem is the bail out system. Owners who pay 'bail money' to the police will systematically add it on top of the girl's 'debt'. Linked to that is the practice of pimps and local goons being provided access to girls in police stations. In cases where defendants are held under the Public Offence Act, money exchanges cannot be considered a 'bail' unless they have been legally ordered by the Chief District Officer. It is the CDO who sets the bail, and that is the point at which it becomes legal for someone to pay the CDO to secure the defendant's release.

### **Abuse of confidentiality and privacy**

Due to social stigma, on themselves as well as their families, most entertainment workers wish to hide their profession from the public eye. While the freedom to engage in entertainment work is a right, the freedom of confidentiality and privacy is also a right. By law, police are allowed to enter the privacy of homes and workplaces if they suspect that 'immoral acts' are being conducted there. Thus, an entertainment worker – who can be easily labelled as a sex worker – has no right to privacy. Privacy and confidentiality

are also routinely abused by the media. Names of arrested girls and women are sometimes published in newspapers, and identifiable photographs of girls and women are routinely placed in print and visual media.<sup>95</sup>

### **Security outside the workplace**

Entertainment workers also face everyday security problems, both in the workplace and out. Girls and women have frequently reported problems returning home from work late at night, both from police and from men and street boys who threaten them, steal their money or mobile phones, or beat them.<sup>96</sup> Many entertainment workers have reported assault as well as theft from the customers.<sup>97</sup> When asked whether the police protect them from assault and theft outside the workplace, the majority said that they would expect only further harassment, not protection, from the police.<sup>98</sup>

### **Response to exploitation**

Although there are now some groups of entertainment workers as well as non-governmental organisations which seek a response to harassment and exploitation, many entertainment workers are afraid to raise their voices. Nearly one third believe that they do not have the right to protest their mistreatment.<sup>99</sup> When asked what prevented them from protesting, more than half stated that they were afraid of losing their jobs and being unable to support themselves and their children, or that they were afraid of disgrace and embarrassment. Others noted their fear of owners, clients or

police. One in ten said protesting was useless because nobody would listen to them.<sup>100</sup> At the same time, the entertainment workers are angry: almost half have called for stricter regulations, and more than one quarter said that exploiters should be given severe punishment, including death or life sentences.<sup>101</sup>

## LABOUR ISSUES

Much of the present discourse about Nepal's entertainment industry centres around labour issues. For the government, employers and international organisations, fixing the 'labour problem' through regulation appears to be the 'cure-all' that will legitimate the presence of a sex industry in Nepal. Often hinted, but sometimes directly stated, the attitude of government and business to the concerns of entertainment workers has been: 'If they're earning good money, why should they complain?' However, when one considers the violations of fundamental rights as well as psychosocial issues surrounding the industry, the benefits to entertainment workers are less than satisfactory.

Half of the entertainment workers are new to the industry, and the majority have no knowledge of their basic labour rights, such as a contract or appointment letter, 8-hour work shifts, provision of overtime, provision of sick leave and public holidays, maternity facilities and a safe working environment.<sup>102</sup>

### **Why do they work in the entertainment industry and not elsewhere?**

Almost all entertainment workers say that they work in the

entertainment industry because there is no better work available. Almost all say they would change their jobs if they had an opportunity. The majority have no husband or other person to contribute to their income, and nearly one half have one or more children to support. Many also send money home to their families. Their options are poorly-paid, and often abusive, labour situations such as domestic service or workshop labour. Notably, many are aware that their lack of education precludes them from good employment. Uneducated, unskilled and in need, many girls and women find that the entertainment sector provides the only realistic option. However, as the psychological and social impacts of the industry indicate, because the entertainment sector is the only option, it is not necessarily the best option.

While income in the entertainment sector is greater than in other sectors, in a country where almost all salaries are low, the income is insufficient for their needs. Contrary to the myth of entertainment workers being 'independent women', they spend approximately three quarters of their income totally or partially on their family and less than one third on themselves. While the majority are dissatisfied with their salary, they are realistic about their employment potential, given their age, sex and poor education.<sup>103</sup> The majority say that their salary is adequate according to their qualifications, and express regret that they were not better educated so that they could work elsewhere.<sup>104</sup>

### **A better salary, but not enough**

One of the prevailing ‘modern myths’ about Nepal’s entertainment industry is that the girls and women working in this area make a lot of money. Tales abound of restaurant dancers who make NPR 40,000 a month or more. While a few may do so, the remaining thousands of entertainment owners do not, although generally they earn more than they would earn in domestic service or factory work. In the entertainment industry, workers in massage parlours earn the least (only 25% of the client’s fee according to psychosocial counselors), and dancers in dance restaurants earn the most. It was reported that girls going to “guest houses” earn 50% of the client’s fee. As in most sex-related industries, salary is often based on the physical attractiveness of the worker. Recent research indicates that the income of most entertainment workers, including tips and commission on the sale of alcohol and food, ranges from NPR 3,500 to 5,500 per month.<sup>105</sup> For young, uneducated, unskilled girls and women, this is more than they could earn in other occupations, and almost twice as much as they could earn in the carpet industry.<sup>106</sup>

### **Job insecurity**

Fear of losing their jobs make the girls and women of the entertainment industry vulnerable to exploitation. After sexual harassment, job insecurity is the primary cause of entertainment workers’ dissatisfaction with their job.<sup>107</sup> Almost none are provided with an appointment letter, and thus owners can dismiss workers without notice and can use job dismissal as

a means of coercion.<sup>108</sup> Entertainment workers are frequently shifted between venues operated by the same owner, to satisfy customers who wish to see new girls in their chosen restaurant. Workers are afraid to ask for increase in salary, benefits or better working conditions for fear of being fired.<sup>109</sup>

### **Long hours, no compensation, difficult motherhood**

The majority of those in the entertainment industry work 8 to 10 hours a day, 7 days a week. While being forced to work overtime, almost none receive compensation.<sup>110</sup> Two-thirds get no break during working hours and none get time off for public holidays, for these are days in which business is brisk.<sup>111</sup> This is not only a problem for the worker, but directly affects the well-being of the thousands of children of the women of the entertainment industry. There is no evidence that any entertainment workers are provided facilities to support maternity, including maternity leave, allowances, crèche services or breaks in their working day to breastfeed their babies.<sup>112</sup>

### **A worst form of child labour**

According to international law, as many as one third of the female workers in Nepal’s entertainment industry, i.e. those under the age of 18, are engaged in child labour.<sup>113</sup> According to Nepal’s labour law, in which a child is defined as a person under the age of 16, as many as one tenth are child labourers.<sup>114</sup> Due to working hours, the presence of alcohol and violence, and the risks of forced prostitution both international and national law classify work in the entertainment sector as a

'worst form of child labour'. Under Nepal law, all persons under 16 in the entertainment industry are working illegally. The law expressly forbids the employment of children in restaurants, bars and pubs, deeming this to be a 'hazardous occupation or work'.<sup>115</sup> The difficulty, however, lies in the issue of age determination. Most girls are forced to lie about their age, pretending to be above 16 or 18. X-rays (which can be organised by the police at TU hospital) are not systematically done for detainees with borderline age. This brought Terre des hommes Foundation to contact several bilateral donors with a request to assist with age determination equipment (e.g. hand x-rays and bone ossification tests).

### **Deceptive recruitment and forced labour**

As stated above, the majority of girls and women are recruited by peers – persons from their own village who are working in the entertainment industry.<sup>116</sup> Most feel that at the time they were recruited, they were deceived about the nature of the job.<sup>117</sup> If these persons were children or if the recruitment of an adult resulted in prostitution, the recruiting peer and the employer are guilty of trafficking under both Nepal and international law.

Once in the business, some find they are victims of forced labour, and think they do not have the right to quit – both criteria for slavery under international law.<sup>118</sup> Owners compel girls and women to sit with customers and submit to their touching even if the worker feels the customer is abusive. Many have reported that their owners force them to go out

### **From Mental Torture to a Safe Return Home**

It was not easy talking to Radha, a 16-year-old girl who seemed very sad and unapproachable. She exhibited some kind of inferiority complex and often worried about her family. In one of the sessions she confessed that she had sexually transmitted infection (STI), and obviously it was one of the worries that she was carrying with her. After several sessions, it was figured out that she was subjected to verbal abuse, especially the derogatory words flung at her, by various people, and that was giving her mental torture. It seemed that she was also scared of the 'owner' and because of that she always seemed to be in fear. She expressed that she felt humiliated and had low self-esteem, which was very apparent. However, the counseling sessions helped to reduce her fear of the owner, and according to a mutually agreed indicator, it dropped from level 9 to 4. Similarly, the feeling of humiliation reduced from level 8 to 4. Over the time, her self-esteem also increased to a considerable level which allowed her to leave the abusive workplace and return to her family in Nawalpur, Sindhupalchowk.

**Source:** Case Study 3 (PS008/09), Tdh Psychosocial Initiative; *Jamuna Shrestha, Clinical Supervisor, Transcultural Psychosocial Organization (TPO), November 2009.*

with the customers for sex. Workers feel they have no choice, because they must earn income for their families or because they do not have the right to quit. Many girls and women have reported that they are not allowed to quit until they bring one or more girls to replace them, thus forcing them into the position of pimp or trafficker. Some are in debt bondage,

either from 'advances' given to their families (as with girls who are trafficked to India) or from loans that they incur. Almost one third are indebted, and the most frequent debtor is a 'friend', very often the woman 'leader' who takes charge of new entrants, providing them shelter and mobile phones, pimping for them and interceding in their problems.<sup>119</sup>

### **Positive labour practices**

All is not darkness in the entertainment industry, and credit must be given to some of the owners for their support of female workers. In general, most of the workers are paid on time, and most are provided food during working hours by their employer.<sup>120</sup> Some get transportation home from work.<sup>121</sup> Most notably, although some owners may be exploitive, others provide an important source of support for workers, and about half of workers feel that the owners are benign.<sup>122</sup> There are informal reports of owners 'helping out' their workers, providing them interest-free 'emergency' loans, interceding with abusive husbands, and preventing violence to their workers from the clients.<sup>123</sup>

### **HEALTH CONCERNS**

Work in the entertainment and sex industry is not good for the health. Working seven late nights a week in an atmosphere of smoking, drinking and sex, like work in a confined poorly-lit sweatshop, has irreversible effects on physical and mental health. Because the entertainment and sex industry generates its income by selling 'nightlife', it is questionable whether

regulation can seriously prevent physical harm to the female workers.

### **HIV/AIDS and STIs**

On the surface, the indications of HIV and STI prevalence for female sex workers in the Kathmandu Valley are optimistic. The HIV rate for establishment-based sex workers (as opposed to street-based sex workers) in the Kathmandu Valley decreased from 2% in 2004 to 1% in 2006.<sup>124</sup>

However, given the socio-economic situation of Nepal coupled with the present uncontrolled growth of a sex industry, the present bright picture could easily turn dark. The national coverage for female sex workers (FSWs) with prevention activities is poor: less than 40%. Knowledge of ways to prevent sexual transmission is also poor: only 30% of FSWs and 50% of clients have a firm understanding of HIV and its prevention.<sup>125</sup> Condom use is not universal, with only about three quarters of FSWs reported to use condoms with their most recent clients.<sup>126</sup> Clients are slow to put on condoms, and more than two thirds of the time the condom is provided by the sex worker.

Significantly, the spread of HIV is linked with structural and social problems that are not rapidly improving in Nepal: poverty, gender inequality, poor education, inadequate health services and the marginalization of at-risk groups, including sex workers. The spread of HIV is facilitated by internal migration and civil conflict. Government disarray continues to



discourage the mobilization of interventions, and existing care and support services are already overwhelmed by persons ill from AIDS. By 2010, an estimated 165,000 people will be in need of STI-related health services, and the government is ill-equipped to contribute its necessary support.<sup>127</sup>

Most significantly, the unrestrained new sex industry in Nepal may prove to be a great opportunity for the spread of the virus. The combination of drunkenness and sex promoted by the entertainment industry may shatter the present statistics on condom use: more than one quarter of sex workers in the entertainment industry say that their clients refuse to use condoms when they are drunk.<sup>128</sup> Sex workers place clients' refusal to wear condoms in the top five of their list of 'worst problems' (the risk of contracting HIV/AIDS is at the top of their list).<sup>129</sup>

The present police aggression against entertainment workers is another factor in increased HIV transmission. The girls and women routinely report that the police harass them or arrest them if they find a condom in their possession.<sup>130</sup> As the sex industry grows, global evidence suggests that drug use among its workers will grow. The rate of HIV infection among IDUs is approximately one third. It is also likely that the great proportion of married men among the customers of the sex industry will increase the transmission of HIV/AIDS to their wives and newborn children.

### **Frequent abortions**

In 2002, Nepal liberalized its abortion laws, allowing women to receive abortions by their own choice up to 12 weeks of pregnancy, or up to 18 weeks of pregnancy if a victim of rape. This resulted in a rapid decrease in illegal and unsafe abortions and, in a country with one of the highest maternal mortality rates in the world, has significantly reduced the number of post-abortion complications reported in government hospitals.<sup>131</sup>

The legal revision ended the imprisonment of numerous women for abortion, and made Nepal one of the models for effective legislation on the issue. Under the new legislation, women may seek abortion without permission of male members of the family, are protected from forced abortion by the requirement of signed voluntary consent, and are ensured confidentiality regarding the proceedings. This prevents further victimization of rape or incest victims, including sex workers who are forcefully involved in sex work and become pregnant. Nepal's revised legislation is both a benefit and a challenge to the workers in the entertainment industry. Reports indicate that as many as one third to one half of active sex workers in the entertainment industry get an abortion every 3 or 4 months with extremely serious consequences on their health.<sup>132</sup> Today, abortion is comparatively inexpensive, from NPR 1,000 to 2,000, and readily available from both government and non-government service providers.<sup>133</sup>

In regard to the entertainment industry, focus on the important issues of maternal health and rights to reproductive choice has obscured two vital questions: How do repeated abortions affect the physical and psychological health of the entertainment worker? Although getting an abortion may be a woman's choice, is getting pregnant her choice? Nepal's notable success in ensuring the reproductive rights of women cannot obscure the reality of the damage to girls and women caused by an industry that makes money through the use of their bodies.

### **Smoking and drinking**

In the entertainment industry, with the exception of the massage parlours, the workers make their commissions and the owners make their primary profit from selling alcohol. Waitresses encourage customers to consume by sharing alcohol with them. As Nepali customers primarily drink beer, so do the waitresses, and a waitress may consume up to 3 or 4 bottles in an evening.<sup>134</sup> When asked what unhealthy habits they are forced to adopt, more than one half said drinking.<sup>135</sup> Cigarette smoking is also a health concern. More than two thirds of restaurant workers smoke cigarettes, and the majority of workers say this is a result of their job.<sup>136</sup> In the closed confines of a bar or cabin restaurant, even non-smokers are affected.

### **Substance abuse**

There is little evidence of substance abuse among entertainment workers, although its illegality probably results in significant under-reporting.<sup>137</sup> Informal reports indicate that entertainment

workers as well as clients sometimes smoke *ganja* or *charas*, as do many youth in the Kathmandu Valley. However, few use heroin or its derivatives or take tablets.<sup>138</sup> Methamphetamines have yet to arrive in the sex industry of Nepal, although the use of *yabaa*<sup>139</sup> dominates the sex industry of Thailand. In many countries of the world, substance abuse significantly affects workers in the sex industry, and it remains to be seen what substances will in time dominate the new sex industry of Nepal.

### **Workplace environment**

Nepal and international labour law require that the workplace provides a non-toxic environment for workers. Entertainment workers have frequently noted the dark, noisy and smoky atmosphere of their workplace.<sup>140</sup> Most entertainment venues are closed to the outside, lack windows and have no form of ventilation. Noise levels which are of sufficient level to bother neighbours may have an affect on the hearing of restaurant workers. No informants have reported first aid facilities or places away from the business environment where workers can rest.



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Entertainment workers themselves are the primary procurers of other girls and women for the industry, and are paid for bringing new girls to the owners.

## AN ENTERTAINMENT INDUSTRY OR A SEX INDUSTRY?

## PART 6.

### Does Nepal want a sex industry?

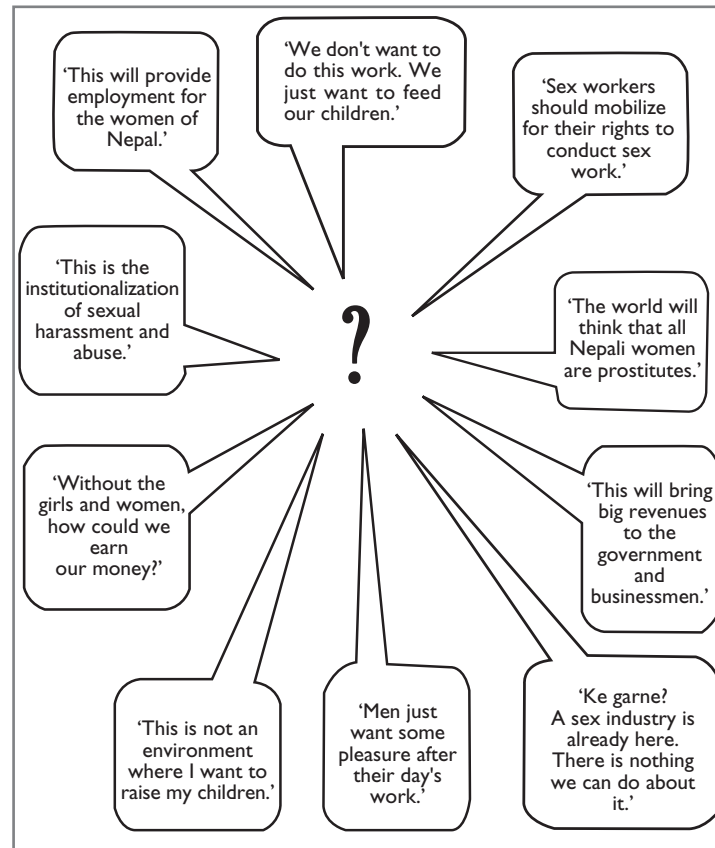
An entertainment and a sex industry are present in the country, but they have just begun and their future remains uncertain. Opinions are divided about the entertainment industry, but they are even more so about the justification for a sex industry.<sup>141</sup>

### Can there be an entertainment industry without a formal sex industry?

Yes, most countries have such. An 'entertainment industry' does not have to be 'male-only' and oriented towards sex and inebriation. Almost all countries have night-time restaurants and bars where men and women can socialize and have a good time. On the other hand, Nepal's 'entertainment industry' includes massage parlours (most of which are disguised brothels), nude exhibitions, private cabins whose primary purpose is to hide sexual activities, and waitresses who are forced to submit to touching and other sexual harassment. These are the signatures of a sex industry, not an entertainment industry.

### What are the implications of the future sex industry?

It is difficult to predict the scenario if the present sex industry continues into the future. Comparisons with the sex industries of other countries are useful, although limited. Creating a 'clean sex industry' like Germany or the Netherlands



is a fantasy. In Thailand and India, the entertainment and sex industry provides moderately-paid employment to a wide spectrum of working class people, and provides large incomes, both black and white, to tourism entrepreneurs, landlords, government and police. At the same time, commercial sexual exploitation of children, trafficking, drug abuse and sex-industry-related crime abound, despite 'regulation'.

Nepal does not have the tourism-related infrastructure, governmental mechanisms or available health and protection services of Thailand or India. It is less equipped to effectively regulate the industry or to address the violence, health and labour problems that accompany a sex industry. Nepal's future scenario may best be compared with that of Cambodia. There, similar 'night entertainment' venues exist for local men and tourists, child trafficking and police corruption are rampant, HIV/AIDS is a significant concern, and labour rights are unaddressed.

### **Can a decision be made?**

Yes. Most countries in the world do not have major, government-supported sex industries. Like gambling, many countries – including countries that have legalized prostitution and do not criminalize local sex work – have decided that they do not want a formal sex industry. While promoting the entertainment industry, they have outlawed practices, such as using restaurants and massage parlours for sexual acts, which directly foster exploitation in the workplace.

### **Who makes the decision?**

The people, and their representatives. It is a measure of the freedom of a country whether such decisions are made in the interests of the powerful or in the interests of the people. To date, government and businessmen have made almost all of the decisions about the growing entertainment and sex industry. Business interests at present exert the most powerful influence regarding the future of the industry. With few exceptions, the workers of the industry and the average citizen have had little input. No survey of people's opinions has been conducted.

### What are the pros and cons of a sex industry?

There are clear advantages and disadvantages of developing a sex industry in Nepal. Decision-makers and the people must weigh these pros and cons.

#### ARGUMENTS USED BY 'PROS'

Women have the right to conduct sex work

Girls, women and other workers are provided employment

This will attract more tourists (albeit sex tourists)

Venue owners, hotels, government, police, casinos and others make money, which benefits many people in the country

#### ARGUMENTS USED BY 'CONS'

Girls and women have the right to protection from sexual exploitation

Violence against girls and women

Lack of options and the 'pull factor' of the industry draw girls and women into sex work

Girls and women are trafficked and coerced into commercial sexual exploitation

The psychological and social impact upon females and children is profound

Health impact, including HIV/AIDS

Labour concerns, including debt bondage and coerced labour

The sex industry casts a negative light upon Nepal's image

### Will 'regulation' fix the problems?

Not entirely. Unless regulation is conducted in the framework of clear laws that distinguish an 'entertainment industry' from a 'sex industry', it is unlikely to be effective. Particularly in the developing world, regulation of sex industries has been shown to be ineffective. While 'regulations' are useful for business publicity and international reports, they usually go no further because governments are unable or unwilling to enforce them. In some developed and newly-industrializing countries, such as the UK, Germany and Thailand, regulation has improved health and labour problems, but has had little affect on trafficking, substance abuse, violence against girls and women, or the growth of industry-related crime. In developing countries like India, Bangladesh and Cambodia, regulation has been almost entirely ineffective.

### Will a 'red light area' fix the problems?

No. While 'red light areas' may be effective in a few Western countries, the 'red light area' is an outdated institution in the modern developing world. Red light areas throughout the world are disappearing. The traditional red light areas of India, Pakistan and Bangladesh, such as Kamathipura, the Hiramandi or Daulotdia, are almost extinct. Sex work has moved to suburban locations, using bars and restaurants as sex access points.

Clients don't like conspicuous red light areas. In countries such as India, in which clients can be arrested for engaging a

sex worker, few are willing to risk being caught in the brothel of a red light area, where police may raid for trafficked children. Clients prefer to choose sex partners in more informal environments such as bars, restaurants or small suburban brothels. The presence of red light areas has not been shown in any country to stop the spread of brothels throughout urban areas. Instead, in much of the developing world they create a crime zone in which enterprises such as drug-selling, human trafficking and black marketeering prosper.

#### **Will 'legalisation of sex work' fix the problems?**

No – although prohibition of sex work causes even more problems. Most people think of the issue as black and white: either legalisation or prohibition. There is a third pole: decriminalisation. To 'legalise' means to label sex work as a special occupation, subject to regulation. As has been shown in many countries, regulation has frequently had dire consequences for sex workers – they have come under increased police control, their workplaces have been 'ghettoised' in red light areas, they have been subjected to forced health checks, and their children have been taken away 'for their own protection'.

Decriminalisation, on the other hand, means 'let them be' – not to make prostitution a 'special profession', no more subject to special regulation than teaching or accounting. Sex workers should enjoy the same fundamental human rights and civil liberties, working conditions and social benefits as other

employed persons and should be protected by the same laws against violence, rape, child sexual abuse, child labour and police aggression. The profession should be subject to the same business standards, and sex workers should be equally accountable for maintaining health practices and ensuring the proper care of their children. At the same time, the profession needs special assistance. Criminals who feed off sex workers must be arrested and prosecuted. The public must be educated to change attitudes which stigmatise sex workers and their children, and health programmes must still focus on the profession's high risk of STI and HIV transmission.





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A Cabin restaurant in Koteswor



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Will a 'red light area' fix the problems ?

## ADDRESSING THE IMPACTS: TOWARDS A PROTECTION SYSTEM

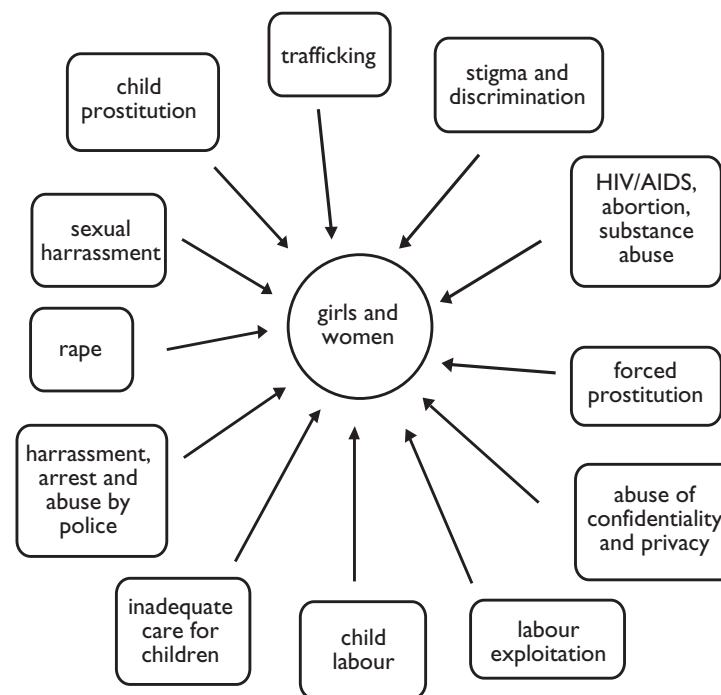
## PART 7.

While the benefits of an entertainment industry are clear – employment, venues for recreation for both men and women, enhanced tourism, government revenues – the benefits of a sex industry are questionable. If the government does not make clear decisions to separate the entertainment industry from the sex industry, then a coordinated protection system will be needed to minimize and control the impact of the sex industry.

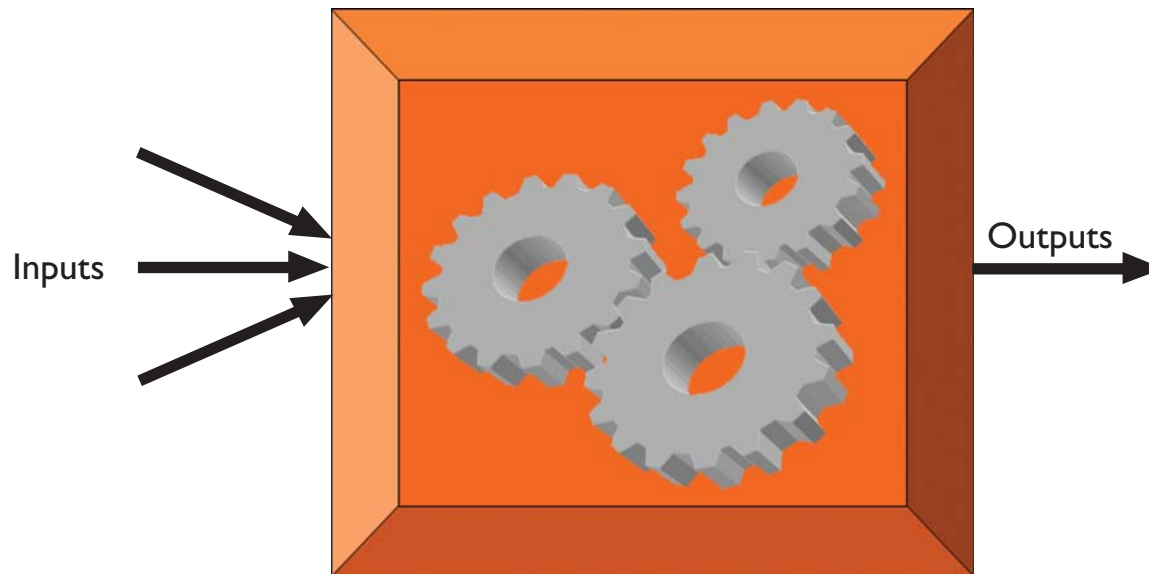
### What is child-sensitive social protection?

Social protection has been used in some countries to ensure that the benefits of industrialization and economic growth reach the poorest. In practice, social protection is understood as a set of public actions that address poverty, vulnerability and exclusion. Because children are dependent on adults to support and protect them means that loss of family care is a significant risk. Child-sensitive social protection is an approach that aims at maximizing opportunities and developmental outcomes for children. Instruments of a child-sensitive social protection system include: social transfers, social insurance and social services.<sup>142</sup>

### THE IMPACTS OF THE SEX INDUSTRY



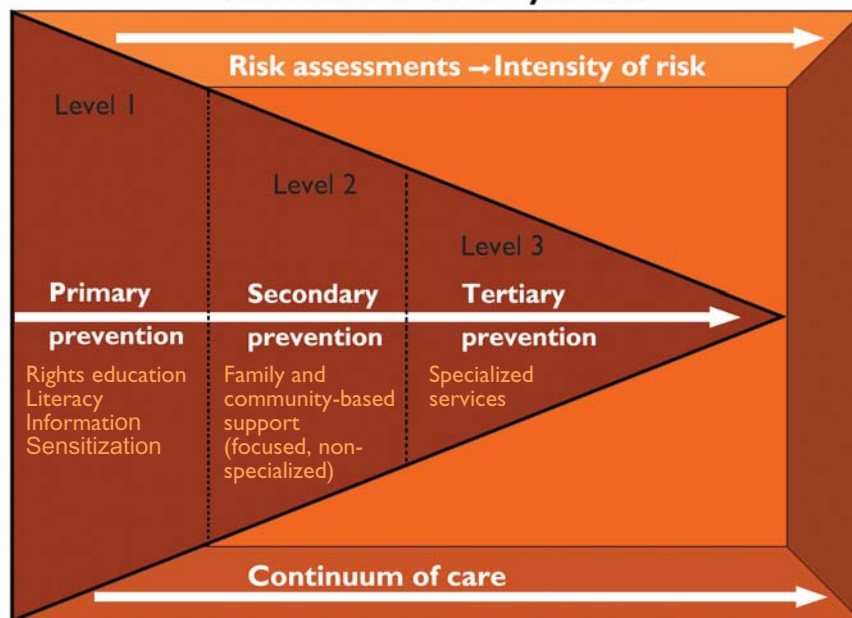
## A Protection and Social Welfare System: Outside the box



### Main features of an efficient system:

1. Both responsive and proactive
2. Predictability and consistency in the manner and sequence in which situations are handled
3. The system meets the needs of individuals but provides similar responses to similar cases

## The Inside of a System



## THE STAKEHOLDERS

### GOVERNMENT

#### **Ministry of Women, Children and Social Welfare (MoWCSW)**

This is the focal ministry for the protection of children and women, and holds the responsibility to formulate and implement plans and policies concerning the welfare and protection of children and women, and to ensure the protection and well-being of children and women in vulnerable or difficult circumstances. The ministry is responsible for coordinating the activities related to children, women and social welfare of different ministries and departments at the national level, as well as government authorities at the sub-national level, and national and international NGOs engaged in the social sector. The ministry is also responsible for monitoring the implementation of the United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

#### **Central Child Welfare Board (CCWB)**

The CCWB is a statutory body created by the Nepal Children's Act 1992, and oversees District Child Welfare Boards (DCWBs) in the 75 districts of the country. Designated Children Welfare Officers operate under the directives of the DCWBs. The mandate of the CCWB includes coordination, policy dialogue, facilitation, monitoring and evaluation of child-related issues.

The CCWB and the MoWCSW jointly coordinate the planning and implementation of child protection initiatives at the central level, while district-level offices of the MoWCSW and CCWB coordinate, monitor and evaluate district-level plans and programmes.<sup>143</sup>

The CCWB and the DCWBs are responsible for monitoring the operations of Children's Welfare Homes and Children's Rehabilitation Homes, orphanages, and centres for physically and mentally challenged children, which are to be established by the government according to the Nepal Children's Act. Children's Welfare Homes, as designated in the Nepal Children's Act 1992, provide residential support to 'abandoned' children, meaning a child '1) who has no father, mother, or any other of his family to look after him; 2) who has been neglected by his father, mother or any member of his family even though they exist; 3) who does not have any means of living'.<sup>144</sup> Children's Rehabilitation Homes are intended to provide residential support to children in conflict with the law. Both the CCWB and the DCWBs are mandated to inspect and provide reports regarding these government facilities.

#### **National Coordination Committee (NCC)**

As per the NPA against Trafficking in Children and Women for Sexual and Labour Exploitation, the NCC was formed under the chairpersonship of the Minister of the MoWCSW. It comprises 16 representatives from line ministries and NGOs. Its function is to support the establishment of the National

Task Force and to provide coordination of this Task Force with the MoWCSW.

### **National, District, VDC and Municipality Task Forces**

The National Task Force coordinates activities regarding the trafficking of children and women at the national level, and provides guidelines and decision-making regarding national-level interventions. The National Task Force is mandated, among other things, to: organise orientation seminars on trafficking; provide guidelines and directives to the Central and District Child Welfare Boards and District Task Forces on addressing trafficking issues; determine procedures for the rehabilitation of repatriated Nepali victims of trafficking and sexual exploitation; finalize plans of action related to trafficking; approve programmes on the issue submitted by government and NGOs; and coordinate the activities of government and NGOs related to addressing trafficking.<sup>145</sup>

District Task Forces, with representatives from government and NGOs, have been established in 26 districts which have been identified as trafficking prone by the MoWCSW. District Task Forces are mandated to, among other things: identify Village Development Committees (VDCs) that are affected by trafficking; operate awareness campaigns in trafficking-affected VDCs in coordination with the District Child Welfare Boards; and coordinate and monitor the anti-trafficking programmes of government line agencies, NGOs and local elected bodies at the district level.<sup>146</sup> District Task Forces have conducted planning workshops to develop district-level plans of action

to combat trafficking, as well as supporting awareness campaigns in the target districts. At the local level, VDC Task Forces and Municipality Task Forces are mandated to, among other things: identify trafficking-prone areas; collect and disseminate data on trafficking; and conduct awareness-raising campaigns to combat trafficking.

### **Child Helpline-Nepal**

This system is operated by the MoWCSW in partnership with the CCWB, Nepal Telecom and Child Workers in Nepal Concerned Center (CWIN), with international support. It operates a toll-free number for the protection of children at risk, and provides referral to response services, including rescue, investigation and monitoring, legal aid, medical support, temporary shelter, and follow-up support for the child and family, among others.

### **Ministry of Home Affairs (MoHA)**

This ministry is responsible for, among else: local administration; citizenship; migration (passport issuance) and immigration; control of public offences; prison administration; and controlling the sale and trafficking of children and women.<sup>147</sup>

### **Nepal Police**

The Nepal Police, which functions under the MoHA, has the mandate to maintain law and order, viz. reduce incidences of crime, protect the life and property of citizens, investigate crime, and apprehend and institute legal proceedings against offenders.<sup>148</sup> The Nepal Police has implemented the concept of Community Police, and as of 2008, had established 179 Community Service Centers in 72 districts. These centers, among other things, organise public awareness programmes

to minimize trafficking of women, drug abuse and other 'social crimes'.

In 1996, the Nepal police established the first Women and Children Service Center (WCSC). As of 2008, 25 WCSCs had been established in 23 districts, mobilizing female police officers to control and prevent crimes against women and children. Crimes addressed by the WCSCs include human trafficking, sexual offences, polygamy and domestic violence, among others. The WCSC has provided training to police officers on victim support techniques, provided victims with counselling services, and conducted activities to raise awareness of issues of violence against women and children.

#### ***District Administration Offices (DAO)***

In December 2008 the Supreme Court issued directives to the MoHA to register night entertainment establishments and enforce a code of conduct to prevent sexual exploitation and other illicit activities. In 2009, establishments were required to register with the District Administration Offices. The DAOs were mandated to supervise entertainment establishments' adherence to the code of conduct.

#### ***Monitoring Committees for the entertainment industry***

Under the Code of Conduct for Night Time Entertainment Industry 2009 (2065), committees are to be established through the DAOs to regulate and monitor the night entertainment industry. These monitoring committees are comprised of the Chief District Officer, the Chief of the District or Municipality

Police Office, and a Women Development Officer, with invited members including representatives from the Night Entertainment Entrepreneurs Association, Labour Office, municipal government, Department of Cottage and Small Scale Industries and Internal Revenue.

#### ***National Center for Children at Risk***

The Center works for the protection, identification and support of missing children, child victims of criminal acts and children without care who are separated from their families. It was established in 2006 through a collaborative effort of the Nepal Police, MoWCSW and the CCWB. The Center maintains a toll-free number to report missing children and those in need of protection, and assists in their support and family reunification. The Center also conducts documentation of the status of children at risk in Nepal, and provides information and awareness to children, citizens and concerned NGOs regarding preventing and minimizing criminal acts against children.

#### ***Ministry of Law, Justice and Parliamentary Affairs (MoLJPA)***

This is the focal ministry regarding law and justice, advising government on law and justice administration, assisting in the formulation and review of legislation that is tabled to Parliament, and advising the government on the signature and ratification of international conventions, treaties, covenants and bilateral agreements. The Secretary, MoLJPA, is a member of the National Coordination Committee, and the Joint Secretary, MoLJPA, is a member of the National Task Force.



### **Judiciary**

Judicial power is exercised by the Courts in accordance with the Constitution, the laws and recognized principles of justice, including international treaties and conventions to which Nepal is a party. The Supreme Court holds the final authority to interpret the Constitution and its accompanying legislation, and to make interpretations which harmonize domestic law with the Constitution and international instruments, including the Convention on the Rights of the Child. The Supreme Court may also issue orders to the government to make necessary legislation and conduct other acts to uphold human rights principles. The Supreme Court has made significant decisions in recent years on behalf of the rights of children and women, as explained later in this document.

### **National Human Rights Commission (NHRC)**

The NHRC is an autonomous body mandated by the Constitution to 'promote respect for, protect and promote human rights and ensure their effective implementation.'<sup>149</sup> The NHRC is mandated by the Constitution to, among else, investigate and make recommendations for action regarding the violation of human rights, forward recommendations to the appropriate governmental authority to prevent the violation of human rights, lodge petitions in court in accordance with the law against those who have violated human rights, and review prevailing laws and make recommendations to the government for law reform and amendment. The NHRC monitors the violations of the rights of children, and has

established a Child Rights Protection Desk which addresses complaints regarding human rights violations, conducts inquiries and investigations, organises inspections and observation, and makes assessments of the human rights situation of Nepal citizens.

### **Office of the National Rapporteur on Trafficking in Women and Children (ONRT)**

As per a Memorandum of Understanding between the MoWCSW and the NHRC, the Office of the National Rapporteur on Trafficking in Women and Children was established in 1992. The ONRT monitors the incidence of trafficking in Nepal, collects data on the trafficking situation which are published in National Reports, and coordinates national, regional and international efforts to combat trafficking. The ONRT has made a significant contribution to the development of both the Human Trafficking and Transportation (Control) Act 2064 (2007) and the NPA against Trafficking of Women and Children.

### **National Women's Commission (NWC)**

This statutory body is mandated by the National Women's Commission Act 2064 to promote and protect the rights of women in Nepal. The NWC receives complaints and conducts investigation of human rights violations against women, as well as reviewing and recommending changes in legislation, raising awareness on women's issues, monitoring violations of women's rights and monitoring the implementation on national conventions regarding the rights of women.

### **Ministry of Labour and Transport Management (MoLTM)**

This ministry has the mandate to formulate and oversee the implementation of policies to address labour issues, including child labour, according to national legislation and the National Master Plan on Child Labour (2004-2014), which specifically addresses children in hazardous and worst forms of employment. The ministry oversees the regulation of labour standards in the workplace in accordance with the Nepal Labor Act 1992 and other legislation.

### ***Department of Cottage and Small Scale Industries (DoCSSI)***

This department under the MoLTM oversees the adherence to labour regulations of small enterprises, including those of the entertainment sector. It is responsible for ensuring that enterprise owners and managers do not employ children in situations which conflict with national law, and provide safe and hygienic workplaces, appropriate working hours, salaries, benefits and other requirements of working persons in accordance with Nepal law and regulation.

### **Ministry of Health and Populations (MoHP)**

The Department of Health, under the MoHP, is responsible for overseeing the National Centre for AIDS and STD Control (NASC), which directs the implementation of the National AIDS Prevention and Control Programme. The programme includes community sensitization, peer education/IEC, STI services, VCT services and condom distribution/social marketing, with specific targetting of high-risk groups, including sex workers.

### **Ministry of Education and Sports (MoES)**

This ministry is key to the prevention of trafficking as it supports the implementation of educational and skill development programmes targetted at vulnerable and marginalized groups, including girl children, adolescents and women. The MoES is mandated to conduct the planning, management and delivery of educational services throughout the country, and is implementing the national policy of free and compulsory education for all.

### **Ministry of Local Development (MoLD)**

MoLD assists local government bodies, including District Development Committees (DDCs), VDCs and Municipalities, to implement development plans and projects, including activities to address social concerns, as per the Local Governance Act. These plans and projects incorporate activities to address social concerns, including trafficking. The Chairpersons of the DDCs and VDCs, and the Mayors of Municipalities are directly engaged in trafficking prevention and response in their roles as Chairpersons of District, VDC and Municipality Task Forces respectively. Through administration of the government's Poverty Alleviation Fund, the MoLD also plays a key role in prevention of trafficking through the reduction of poverty among women and marginalized groups. The Poverty Alleviation Fund supports income-generation programmes, social mobilization and capacity-building of local community-based organisations, among other things, at the community level.

**Ministry of Foreign Affairs (MoFA)** The MoFA is responsible for maintaining relations with foreign governments, the United Nations, and other international and regional organisations in accordance with the policies of the Nepal government. As per its mandate, the MoFA is central in developing and implementing policy related to the trafficking of persons across the borders of Nepal.

### **National Planning Commission (NPC)**

The NPC is the primary body for coordinating line ministries in regard to annual and periodic planning and programming. It allocates resources for national development and is the central agency for the monitoring and evaluation of policies, plans and programmes. In its role, it has the capacity to integrate trafficking priorities into plans and programmes related to poverty alleviation, women's empowerment, health and social justice, among other areas.<sup>150</sup>

### **NON-GOVERNMENTAL ORGANISATIONS**

Non-governmental organisations (NGOs) play a significant role in trafficking prevention and response in Nepal. NGOs have provided input into the development of the NPA against Trafficking in Children and Women for Sexual and Labour Exploitation as well as the Human Trafficking and Transportation (Control) Act 2007, and are members of the National Coordination Committee, the National Task Force and District Task Forces. There are several NGO networks in Nepal, the primary of which are the Alliance against Trafficking in Women

and Children in Nepal (AATWIN) and the National Network against Girl Trafficking (NNAGT). These networks conduct advocacy, awareness raising and documentation of trafficking incidents, as well as contributing to the development of legislation and policy.

Non-governmental organisations conduct awareness raising and advocacy among vulnerable groups, the public, policy-makers, police officers and community leaders; non-formal education; income-generation training; mobilization of village-level para-legal committees; and other activities to prevent and respond to trafficking. In response to trafficking incidents, NGOs conduct border interception; rescue and withdrawal of children and women from exploitative situations; rehabilitation activities in residential facilities; and the reintegration of formerly trafficked persons in family and community situations. Rehabilitation and reintegration activities include provision of shelter, health services, psychosocial counselling, empowerment training, education, vocational training and legal assistance, among others. A number of NGOs are focused on legal advocacy vis-à-vis trafficking, violence against women and children, and women's and children's rights. These NGOs have been instrumental in revising Nepal's legislation and in presenting cases before the judiciary, resulting in significant rulings on behalf of the protection and welfare of women and children, including those in the entertainment industry.

As of 2004, more than 57 non-governmental organisations (NGOs), as well as government agencies, United Nations

agencies and international organisations, were conducting anti-trafficking initiatives in Nepal.<sup>151</sup> Since that time, the number of NGOs has risen, particularly NGOs who engage in activities related to women and children in the entertainment and sex industries (for a partial listing of these NGOs, refer to Annex IV. Resources). These NGOs are small and some are comprised of women workers or trafficking survivors. Their activities include, among other things, advocacy and public awareness regarding issues in the entertainment and sex industries; health care, child care and counselling for industry workers; and provision of vocational training and placement to help girls and women pursue alternative life options. As yet, relative to the larger, established NGOs working in anti-trafficking and violence against women and children, these NGOs have had little voice in national advocacy and have not yet participated extensively in national planning efforts.

### **INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS**

International non-governmental organisations (INGOs), including foreign government development agencies and United Nations agencies, support numerous initiatives by the government, NGOs, media and civil society to prevent and respond to trafficking, violence against women and children, and violation of human rights, including labour rights. They coordinate their efforts with bilateral donors and UN agencies through the Anti-Trafficking Inter-Agency Coordinating Group (IACG) co-chaired by UNICEF and Terre des hommes Foundation. These

organisations have assisted government and civil society in conducting legal reform and framing policies and programmes, including those to address trafficking, reduce poverty, provide education and address HIV/AIDS. International organisations network, exchange information and discuss overall strategies, including those addressing trafficking issues, as members of the Association of International NGOs in Nepal (AIN).

### **BUSINESS COMMUNITY**

The business community in the Kathmandu Valley has taken a role in addressing issues related to the entertainment industry. In response to concerns regarding the working conditions and sexual harassment of entertainment workers, several 'codes of conduct' have been developed. A code of conduct was developed by the Nepal Progressive Massage Workers' Union (an entrepreneurs' association, despite its name), and another was developed by the Nepal Restaurants Entrepreneurs' Association. Most recently, the Code of Conduct for Night Time Entertainment Industry 2009 was developed by the government in collaboration with the Night Entertainment Entrepreneurs Association, which is an Invited Member of the committee to monitor adherence to the code of conduct.

### **MEDIA**

The print, radio and television media of Nepal has been a significant contributor to raising awareness of trafficking, as well as women's and children's rights and issues of violence against women and children. Print and electronic media

institutions have broadcast numerous programmes on these issues targetting children and young people, as well as caregivers and the general public, and have provided a voice for both children and women on issues that concern them. The media has taken a key role in monitoring trafficking as well as other human rights violations, and media reports have been the primary source for documenting the incidence of trafficking in the country.<sup>152</sup> On the other side of the coin, it has been reported that district-based journalists practice “self-censorship” as a result of threats from criminal groups involved in the sex industry.

In recent years, Nepal’s media has been instrumental in raising awareness of the issues surrounding Nepal’s entertainment and sex industries. However, with a few exceptions, funding constraints have limited the media’s ability to mobilize in-depth investigative journalism on the issues. To date, there has been insufficient support from international non-governmental organisations to provide training and support to conduct thorough investigative journalistic efforts. The print, radio and television media have at times failed to abide by the principle of confidentiality although the Code of Conduct 2060 requires journalists to protect the identity of victims. In 2005, the Committee on the Rights of the Child noted with concern in its Concluding Observations on Nepal that “the identity of child offenders, rape victims or children in difficult circumstances continues to be disclosed in the media, which is a clear infringement of article 16 (right to privacy) of the Convention on the Rights of the Child”.<sup>153</sup>

## **THE PUBLIC**

While research, media and NGOs have provided a platform for the voice of the workers in Nepal’s entertainment and sex industries to be heard, the voice of Nepal’s public has been conspicuously absent. To date, no formal survey of public opinion on the growth and establishment of the entertainment and sex industries has been conducted. The views of the public, both adults and children, have not been adequately expressed in the reports and statements by the media, government, NGOs, INGOs, political groups or the business sector, each of which has its own interests, which may or may not reflect the views of the public. There are no formal mechanisms in the government to ensure that the voice of people is heard. Despite numerous activities supported by international non-governmental organisations in regard to the entertainment and sex industries, none have been directed at soliciting the public’s opinion regarding the presence and future of a sex industry in Nepal.

## PROGRESS SINCE 2000

Although the entertainment industry and its correlative, the sex industry, continue to grow without restriction, government and civil society have made some important efforts in legislation, policy and action since the year 2000 to address the impacts of the entertainment and sex industry, and to ensure the rights and well-being of working girls and women, and their children.

### 2000

#### **Child Labour (Prohibition and Regulation) Act, 2056**

This act made important amendments and changes in the Labour Act 1991, including raising the age of a child from 14 to 16, and forbidding the use of children in 'risky occupation and work', which includes, among others, work in hotels, casinos, restaurants, bars and pubs. The definition of hazardous work does not include involvement of children in prostitution.

### 2001

#### **Code of Ethics for the Nepal Medical Council, 2057**

This code of ethics made physicians responsible for confidentiality of information about their patients, including victims of sexual violence and people living with HIV/AIDS.

#### **National Plan of Action for Combatting Against Trafficking in Women and Children**

The trafficking NPA is based on the NPAs of other countries in the 1990s, and focuses on 'trafficking' to the exclusion of addressing the broader forms and causes of exploitation. The

primary weaknesses of the plan are its vague strategy, its failure to clarify mechanisms for its implementation, its exclusion of civil society actors, and its reliance for implementation on Task Forces at the district and local levels which lack the resources or mandate to carry out anti-trafficking programmes. In consequence, implementation of the NPA by the government has been generally ineffective at the district and local levels, and NGOs and bilateral donors have continued to conduct the majority of anti-trafficking interventions. Gaps in legislation are summarized in general terms in the NPA, and are insufficient to address areas in which children are not protected by law. The NPA does not address linkages of sexual exploitation with child labour or non-commercial child sexual abuse.

### 2002

#### ***Sapana Pradhan Malla for FWLD v. GoN, Writ no. 56/2058 of 2058***

In this key case challenging the lower penalty for those who rape a 'prostitute', the Supreme Court held that sex work is like any other profession, and that no discrimination could be made on the basis of sex work.

#### **11<sup>th</sup> Amendment to the Country Code (Muluki Ain) 2058**

This landmark action liberalized Nepal's draconian laws on abortion, as well as strengthening women's equal property rights, and increasing the punishment for sexual harassment and rape, paedophilia, child marriage, bigamy, and marriage by misrepresentation. However, the bill does not directly prohibit bigamy and does not clarify the existing narrow definition of rape.

**2003**

**Code of Conduct for Journalists, 2060**

This code of conduct required journalists in all forms of media to respect the confidentiality and identity of victims of sexual violence as well as people living with HIV/AIDS. Nepal journalists have in general abided by this Code of Conduct since 2003.

**Safe Abortion Service Procedure, 2060**

These procedures ensured that women are protected from forced abortion by the requirement of signed voluntary consent, and are ensured confidentiality by medical practitioners regarding the proceedings.

**2004**

**National Plan of Action for Children, 2004/05 – 2014/15**

The 10-Year National Plan of Action for Children amends a number of gaps in the trafficking NPA and is a more detailed, comprehensive document. Programmes include, among else, reviewing legislation with a view towards addressing sexual exploitation, abuse and harassment; reviewing and amending laws regarding the age of children; strengthening the participation of children in policy-making; addressing child labour issues; strengthening monitoring and response to child abuse at the local level; and developing mechanisms to protect street children. However, this plan, like the trafficking NPA, is dependent on the government at the district and local levels for facilitation, and lacks adequate mechanisms for involving NGO and community stakeholders.

***Sharmila Prajuli, Shova Shah and others v. GoN, Writ no. 3434 of 2060.***

As a result of this case, the Supreme Court ordered the government to take ‘necessary steps’ and initiatives to enact appropriate laws relating to sexual harassment.

**Master Plan on Child Labour, 2004 – 2014**

This document provides limited guidelines to address the concerns of children in the entertainment and sex industry. It reiterates the Nepal Labour Act 1991 in classifying work in hotels, restaurants and casinos (massage parlours are excluded), as well as prostitution, as worst forms of child labour, but provides few recommendations to implement that act or its 2000 amendment. Actions to prevent the extreme worst forms of child labour, such as trafficking, are limited to monitoring ‘embarkation and disembarkation points’ and conducting ‘training and education’, while actions to prevent child labour in the forbidden areas of the service sector, such as bars, are limited to adopting codes of conduct. There are no firm actions to strengthen laws and enhance the prosecution of offenders. The foundation of data with which it was developed is questionable as, according to its Annex 2.5 Status of Child Labour in Nepal, only 150 children are claimed to be working as sex workers in Kathmandu, and there is no mention of internal trafficking of children for prostitution.

**2005**

**National HIV/AIDS Strategy (2006 - 2011)**

The strategy recognizes that many factors have increased the vulnerability of country towards HIV and AIDS, including 'the increasing number of young girls pushed into the sex trade in major urban areas,' and includes sex workers as one of the most at-risk populations. The strategy specifically acknowledges that while HIV-related health services are not easily accessed by socially disadvantaged groups such as sex workers, specialized and isolated services designed for them increase their social stigma and further exclude them from society. The strategy calls for conscious and balanced interventions to address the needs of marginalized populations.

**2006**

**An Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2063**

This law amended the chapter in the Country Code which penalizes sexual harassment against women. The law expands the definition of sexual harassment from touching the body to include teasing and verbal sexual harassment, removal of clothing, exposure to sexual images and other forms of harassment. However, the provision does not specifically address sexual harassment in the workplace.

**2007**

**Interim Constitution of Nepal, 2063**

The Interim Constitution is a well-considered document which encourages special measures to guarantee the equality of

women and children, guarantees the right of privacy, encourages special provisions of social security for single women and children, confers the freedom to practice any profession (with the limitation of 'acts that may be contrary to public health or morality'), guarantees the right of children and all persons against any form of exploitation as well as trafficking and slavery (although it does not adequately define 'exploitation'), prohibits forced labour, guarantees women's reproductive health rights, and prohibits and punishes all forms of violence against women.

***Sapana Pradhan Malla for FWLD v. GoN, Writ no. 3561 of 2063.***

Based on this case, the Supreme Court issued a directive order to enact appropriate laws to protect the confidentiality of women, children and other parties in the judicial proceedings of sensitive cases like violence, HIV infection and sexual offences.

**Human Trafficking and Transportation (Control) Act, 2064**

While this Act is an improvement over previous legislation in more adequately defining the mechanisms of human trafficking, it reflects Nepal's longstanding concern with the trafficking of girls and women to India, and relative lack of concern about child prostitution and trafficking within the country. The Act places emphasis on punishing the trafficker/transporter rather than the long-term exploiter, whether brothel owner or sex abuser. In addition, the punishment for taking a person to a foreign country is approximately twice that of taking a person



from one place to another in Nepal. The primary constraint in the Act is its mixing of prostitution with trafficking. It defines, among else, having sex with a prostitute as trafficking. At the same time, while providing extra penalties for the transportation of a child for the purpose of exploitation, it is silent regarding engaging children in prostitution and on clients' use of child prostitutes.

**2008**

**Human Trafficking (Control) Regulation, 2065**

In order to implement the Trafficking Act, this regulation establishes National and District Committees to plan, formulate and implement policies, projects and programmes related to anti-trafficking. The Committees oversee the rescue of externally and internally trafficked persons, and oversee and monitor rehabilitation centres. District Committees can establish and operate centres for trafficking victims in collaboration with NGOs. The relationship of the National and District Committees with the National and District Child Welfare Boards, also concerned with the rehabilitation of child victims, is not clarified in the document.

**National Policy on HIV/AIDS and Workplace, 2064**

This policy directs the development of laws and mechanisms which require the employer to take measures to protect women employees from sexual harassment in the workplace and to prevent discrimination against persons living with HIV/AIDS.

**Three-Year Interim Plan (2064/65 – 2066/67)**

Among the plan's policies for children is the Child Welfare Program, which includes a grant 'for rehabilitation including education, health, psychosocial counselling for those affected and children at risk' and a review of policies, laws and amendments related to children. Notably, the plan recognizes the needs of single women, and among its policies states that 'special measures will be taken to socially and economically empower single women', as well as to ensure women's right to reproductive and sexual health. The plan also adopts a strategy to strengthen the effectiveness of the existing health care programmes addressing the physical and mental health of those who are affected by, among else, gender-based violence.

**Pro-public v. GoN, Writ no. 2822 of 2065**

Following a writ petition filed by Pro-public and the review of a study report on cabin and dance restaurants and massage parlours facilitated by the Ministry of Women, Children and Social Welfare, the Supreme Court issued a directive order requiring the government to enact a separate and appropriate law for protecting the rights of women working in cabin and dance restaurants and massage parlours. The writ also demanded guidelines to end all kinds of sexual and economic exploitation against women workers.

**Directives to Control Sexual Harassment towards Working Women in Work-Places such as Dance Restaurants, Dance Bars, 2065**

The Directives were issued by the Supreme Court as a result

of the writ petition filed by Pro-public. The Directives prohibit both sexual exploitation (which include proposing sex, teasing, sexual joking and presenting erotic behaviour) and sexual exploitation (which include touching, or luring, coaxing or compelling another to have a sexual relationship). The Directives prohibit requiring women workers to smoke or drink with customers or to conduct nude performances. Owners are required to protect women workers from disrespectful, harassing or exploitative behaviour by customers, as well as abide by labour laws. The Directives also address the customers, requiring them to show respectful behaviour and not make noise, although the Directives do not forbid drunkenness or violent behaviour. Night entertainment establishments must be registered under the District Administration Office within a specific time period. Adherence to the Directives will be monitored by the police, the Chief District Officer and a District Monitoring and Action Committee (comprised of the Chief District Officer, Chief of District Police Office and Chief of District Women Development Office). While a notable document and a necessary step towards enacting legislation to protect entertainment workers, the Directives provide no penalties other than closure of the establishment. The Monitoring and Action Committee is unrealistic for monitoring purposes, as it is comprised of senior officials whose work burdens would make it difficult for the Committee to conduct inspections, receive complaints, etc. As well, massage parlours are categorized along with night entertainment venues, which they are not. There is no prohibition of cabins, closed massage rooms and other situations in which sex can take place on public premises.

### **2009 Code of Conduct for Night Time Entertainment Industry, 2009 (2065)**

The Code of Conduct was issued by District Administration Office, Kathmandu, and the Night Entertainment Entrepreneurs Association, with no input from the entertainment workers. This document is intended to support the status quo of entrepreneurs and does not address the needs of the women workers. It does directly require owners to address sexual harassment and abuse of employees, but encourages businesses to follow laws and 'provide public support to public morality, peace and security'. It does indicate that sexual harassment, sexual exploitation, drunkenness or violence are unfavourable activities, as clearly set out in the Directives, but only encourages workers and entrepreneurs to 'suggest the client to behave in accordance with the code of conduct' (although the code of conduct does not explain proper and improper behaviour). As a gesture to morality it prohibits nude dancing, but does not prohibit the presence of sexual activities on the premises through the use of cabins and closed massage rooms. The Code of Conduct inadequately reflects the Directives and has no clear mechanisms for controlling sexual harassment in the entertainment industry.

## CONSTITUTION DRAFTING

The fact that the country's Constitution should include robust and unambiguous provisions relating to trafficking and exploitation cannot be overemphasized. Exploitation of children, in particular, should be mentioned.

The provisions herebelow are provided by way of examples:

**Article 1: Prohibition of traffic in human beings and forced labour**

Human trafficking and exploitation are prohibited and any contravention of this provision shall be an offence punishable by law (Human Trafficking and Transportation (Control) Act, 2064 (2007)).

**Article 2: Prohibition of commercial sexual exploitation of children**

No child shall be employed in massage parlours, cabin restaurants or dance bars or in any other employment that would entail commercial sexual exploitation of children.

**Article 3: A Right to Education**

The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State, by law, may determine.

## BEYOND REGULATIONS

The primary response of government to the negative impacts of the entertainment and sex industries has come in the form of regulation. On December 28, 2008, the Supreme Court issued the Directives to Control Sexual Harassment towards Working Women in Work-Places such as Dance Restaurants, Dance Bars, 2065 (see above), with the requirement that all night entertainment establishments were to register with the District Administration Offices (they were previously required to register with the Department of Cottage and Small Scale Industries), within three months. As of March 28, 2009, only a few entertainment establishments had registered.

The government's attempts to regulate the industry include registration of establishments and a code of conduct to be enforced by a District Monitoring and Action Committee (see above). These actions, if implemented sufficiently, can provide some guarantees of basic rights to workers in the entertainment industry. However, while addressing harassment, neither the Directives nor the Code of Conduct address many of the deprivations of labour rights that entertainment workers face, such as payment for overtime work, medical benefits and maternity leave. Moreover, these documents do not address the protection of children. Children or 'minors' are not mentioned in either the Directives or the Code of Conduct.

The government has yet to address the ubiquitous presence – and exploitation – of children in Nepal's entertainment industry, and the present NPA on Trafficking is an insufficient vehicle to do so. Today, the identification, withdrawal, recovery and reintegration of children in the sex and entertainment industries are primarily conducted by NGOs. There is a need for a unified prevention and response mechanism comprised of government, NGO and civil society actors, with the authority – and the will – to end child sexual exploitation in the emerging entertainment industry of Nepal.

## HUMAN TRAFFICKING

### Legislation:

The Human Trafficking and Transportation (Control) Act, 2064 (2007) is a substantial improvement over the previous trafficking laws. It contains an adequate definition of trafficking and provides compensation for victims. However, it conflates trafficking and prostitution, and places emphasis on the guilt of the trafficker/transporter rather than the long-term exploiter. The Act does not ensure the right of due process and privacy, allowing police to search and arrest without a warrant. The current Act does not provide for summary procedures, and in their absence, trafficking cases can take 4 to 5 years for final resolution. In implementing this law, emphasis is placed on cross-border trafficking and not on internal trafficking.

### *Moving forward:*

- Separate legislation regarding trafficking and prostitution into separate instruments.
- Amend the Law to effectively penalize the exploiter generally, and the exploiters of children in particular.
- Amend the Law to ensure victim and defendant's rights of due process and privacy, and to provide summary procedures to expedite trafficking cases.

### General situation of entire cases of Supreme Court Decision

Fiscal Year	Backlog	Prosecuted	Conviction	Acquittal	Conviction rate
2004/5 (2061/62)	101	16	16	13	55.17
2005/6 (2062/63)	88	14	4	9	30.77
2006/7 (2063/64)	89	23	8	19	29.63
2007/8 (2064/65)	85	8	14	20	41.17

## Work Accomplished by the Office of the Attorney General

Fiscal Year	Existing record			Disposition / Appeal			Revision	
	Backlog	Current Year	Total	Appealed	Direction for Appealed	Not Appealed	Reviewed	Not reviewed
2004/5 (2061/62)	3	42	45	4	5	21	2	11
2005/6 (2062/63)	2	36	38	6	4	11	7	6
2006/7 (2063/64)	3	51	54	4	5	15	11	12
2007/8 (2064/65)	7	42	49	3	2	19	3	20

**Policy:** The National Plan of Action for Combatting Against Trafficking in Women and Children fails to address the causes and forms of exploitation which are the source of trafficking, and does not prescribe actions to end exploitative labour or the worst forms of child labour. Its preventive actions are focused on generalized root causes such as education and poverty, and do not address 'activating' causes such as family dysfunction, violence in the home, school and workplace, and family separation, all of which are linked to trafficking vulnerability. Its strategy is undeveloped and implementation mechanisms are weak.

**Moving forward:** It is time for a revision of this Plan of Action. The NPA should address trafficking as one component of a broader spectrum of protection from exploitation. It should address both the root and activating causes of child and woman vulnerability, and

should directly address economic, gender and social factors that allow exploiters to maintain a market for trafficked persons.

## COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

**Legislation:** In the Trafficking Act, although traffickers are punished for the trafficking of children, legal provisions which penalize the exploiters of children, both the purveyor and the customer, are soft. Children in commercial sexual exploitation are addressed in the Children's Act, 2048 (1990). However this act defines a child as a person under 16, excluding those between 16 and 18. As well, the Act inadequately defines sexual exploitation as an 'immoral profession'. The Child Labour (Prohibition and Regulation) Act, 2056 does not include

commercial sexual exploitation of children among the forbidden worst forms of child labour.

**Moving forward:** It is necessary to form specific provisions prohibiting the involvement of children in the sex trade and provide protection to those who are already engaged in it. Legislation must better define child sexual exploitation in all forms, including pornography and child sexual abuse, and explicitly punish the sexual exploiters as well as the traffickers. The Children's Act should be amended to bring the definition of a child in line with international instruments.

**Policy:** There is no policy document directly addressing child sexual exploitation. The Trafficking National Plan of Action is focused narrowly on trafficking and inadequately addresses the needs of children in prostitution.

**Moving forward:** Revision of the NPA should expand the document to define and address the exploitation which is the cause of trafficking, and go beyond focus on the trafficking process to address the needs of children living in exploitation, as well as the process of bringing children into exploitation.

## FORCED PROSTITUTION

**Legislation:** Existing laws identify forcing a person into prostitution as a criminal act, and cover mechanisms which restaurant owners may use to coerce a woman into prostitution.

However, as law requires the victim to file a complaint with the local police, few girls and women in the entertainment industry are willing to come forward for fear of humiliation and possible accusation of being a prostitute.

**Moving forward:** Legal mechanisms need to be established in which girls and women can file complaints regarding forced prostitution with a party that they can trust.

**Policy:** As above, policy needs greater focus on exploitation as an outcome of trafficking, rather than on the trafficking process.

**Moving forward:** Revision of the NPA to address the issues is recommended, as above.

## THE RIGHTS OF SEX WORKERS

**Legislation:** The right to conduct sex work is not explicitly denied in the Interim Constitution, and the Supreme Court has ruled that it is profession like any other. However, the law forbids the mechanisms by which sex work is conducted, such as solicitation, and penalizes customers from engaging with a sex worker. At the same time, both sex workers and non-sex workers in the entertainment industry are routinely harassed by police under the Some Public (Offences and Penalties) Act 2027 for 'engaging in obscene acts at a public place.'

**Moving forward:** The indirect prohibition of sex work through criminalizing clients should be reviewed. The Some Public (Offences and Penalties) Act 2027 should

either be repealed or revised for clarification in order to reduce its use as an instrument of police harassment of sex workers. Subjective terms such as 'morality', 'immoral profession' and 'obscenity', which may be used to punish women without adequate proof or justification, need clarification in the Interim Constitution and other legislation.

**Policy:** There are no provisions in policy directly relating to the rights of sex workers.

**Moving forward:** Activities to be undertaken to protect the rights of sex workers need to be included in policy documents.

## SEXUAL HARASSMENT

**Legislation:** Nepal has made strong steps forward in its legislation regarding sexual harassment, particularly through An Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2063 (2006). The Some Public (Offences and Penalties) Act 2027 also proscribes public sexual harassment, although it is used to victimize girls and women rather than to punish male offenders in venues such as dance bars. Sexual harassment is well defined in the Directives to Control Sexual Harassment towards Working Women in Work-Places such as Dance Restaurants, Dance Bars, 2065.

**Moving forward:** While sexual harassment is addressed by legislation, legal mechanisms to enforce the laws against perpetrators in the entertainment industry

need to be strengthened. The Directives need to be established as formal law.

**Policy:** No national policy directly addresses sexual harassment, with the exception of the National Policy on HIV/AIDS and Workplace, 2064.

**Moving forward:** Strategies and clear mechanisms to stop sexual harassment need to be incorporated into a national policy for the protection of women and children.

## RAPE

**Legislation:** Rape, including gang rape and rape in custody, is adequately addressed in the Country Code. The Chapter on Rape in the Country Code prohibits sexual exploitation of children as it states that any unnatural sex with a minor amounts to an aggravated form of rape, although the term 'unnatural sex' may not necessarily include non-penetrative forms of sexual abuse. The present law still requires an incident of sexual abuse to be reported and filed within 35 days of the occurrence. This is a significant deterrent to addressing the issue, as many cases are only reported after considerable time, sometimes with the assistance of a counsellor. As well, such time is usually insufficient for police to collect satisfactory evidence to file a case against the alleged perpetrator. Clients of children in commercial sexual exploitation can technically be prosecuted under the rape legislation but this is not happening in practice.

**Moving forward:** Definitions of rape and sexual abuse in the Country Code and other legislation need to be



clarified. The Supreme Court of Nepal directive orders which require a review the existing law regarding extending the time limitation for the reporting of the sexual offences should be followed.

**Policy:** No national policy directly addresses rape.

**Moving forward:** Strategies and mechanisms to punish perpetrators and to assist women and children to resist rape need to be incorporated into a national policy for the protection of women and children.

### **ABUSE OF CONFIDENTIALITY AND PRIVACY**

**Legislation:** The Interim Constitution of Nepal 2007 guarantees the right to privacy as a fundamental right. The Human Trafficking and Transportation (Control) Act 2007 penalizes the publication of a victim's name, picture or any statement adverse to his/her character without the prior approval of the victim. The Code of Conduct for Journalists requires journalists to maintain confidentiality, whereas the Code of Ethics of the Nepal Medical Council states that medical practitioners must respect the confidentiality of patients' information disclosed to them. The Safe Abortion Service Procedure 2003 ensures the confidentiality of women seeking abortion services. In a recent case,<sup>154</sup> the Supreme Court issued a directive order to enact appropriate laws to protect confidentiality of women and children and other parties of the case in the sensitive cases like violence, HIV infection, sexual offences, or other cases which the court trying the offence deems appropriate. At the same time, the

Human Trafficking Act 2007 allows police to 'enter into...such house, land, place or vehicle' without warrant should they deem an offence has been committed, and the right of privacy is thus open to abuse.

**Moving forward:** Although there are adequate laws to protect the confidentiality and privacy of entertainment workers, implementation of those laws – particularly the abuse of privacy by the media – has been insufficient. The section in the Human Trafficking Act 2007 which allows police to enter private dwellings without a warrant should be reviewed.

**Policy:** There are no provisions in policy which provide clear strategies, mechanisms and responsibilities to enforce existing laws which protect rights to confidentiality and privacy.

**Moving forward:** A national plan of action for the protection of women and children should identify confidentiality and privacy as key protection issues. This plan should indicate the means by which legislation can be implemented to ensure that these rights are respected, particularly in regard to disclosure of identity by the media, and the invasion of personal privacy by the police without adequate cause.

### **SINGLE WOMEN ISSUES**

**Legislation:** Entertainment workers are predominantly single women, many of whom have been abandoned by their husbands. Article 35(9) of the Interim Constitution of Nepal specifically

mentions single women: 'The state shall pursue a policy of making special provisions of social security for the protection and welfare of *single women*, orphans, children, helpless, the aged, disabled...' The Country Code provides that a wife should receive a share of property if abandoned by the husband without providing maintenance, is mistreated, or if the husband brings a second wife. However, the law does not specifically punish the act of abandonment of the wife. As a result, many married women are abandoned by their husbands and left desperate with no choice than to undertake sex work. Moreover, the law permits the husband to commit bigamy without asking for the consent of his first wife, if she has taken her share of property as per the above-mentioned law. This in practice creates a situation in which a woman must choose between her conjugal life or a share of property.

**Moving forward:** Legislation needs to be reviewed and revised in order to protect wives and children from abandonment. Laws on bigamy need clarification and revision.

**Policy:** There are no provisions in policy directly addressing the needs of single women.

**Moving forward:** Policy documents should include strategies to provide 'special provisions of social security' for single women, as per the Interim Constitution.

## **HIV/AIDS**

**Legislation:** The Interim Constitution not only guarantees the right to health as a fundamental right, but contains a separate article that ensures that 'every woman shall have the right to reproductive health...' However, there has been no legislation in Nepal specifically related to HIV/AIDS. Notably there is an absence of laws specifically prohibiting discrimination against people living with HIV/AIDS (PLWHA), mandatory testing or physical segregation of PLWHA, or requiring informed consent for testing or the provision of pre- and post-test counselling. The Infectious Diseases Control Act may be invoked to allow mandatory testing for persons in order to prevent the spread of infectious diseases. The employment of HIV positive persons could potentially be limited through the Civil Service Regulation 2050 (1993) and the Health Services Regulation 2055 (1998), which require a certificate of health for appointment in civil service and government-related organisations. These laws on one hand reinforces stigma and discrimination against women involved in sex work, and on the other hand violate their human rights by allowing mandatory HIV testing and possibly reducing their opportunity for employment.

**Moving forward:** Legislation requires review and revision to ensure that the rights of persons living with HIV/AIDS are not compromised.

**Policy:** The National Policy on AIDS and STD Control was developed in 1995, and was founded upon a recognition of the rights and needs of PLWHA, as well as the need to address the epidemic through vulnerable populations, including sex workers. A National HIV/AIDS Strategy was developed in 2001/02 and revised in 2006. The Strategy recognizes that many factors has increased the vulnerability of country towards HIV and AIDS, including the 'increasing number of young girls pushed to sex trade in major urban areas.'<sup>155</sup> The Strategy identifies sex workers as one of the 'most at-risk populations' (MARPs), and identifies youth, street children and trafficked girls as 'at-risk populations' (ARPs).<sup>156</sup>

**Moving forward:** The policy framework of Nepal regarding HIV/AIDS is strong, relative to the weak policy framework regarding other issues. The challenge lies in the successful implementation of the policies.

## ABORTION

**Legislation:** Abortion was legalized in Nepal in 2002 by the eleventh amendment to the Country Code. Previously, abortion was criminalized in all circumstances and Nepali women were placed in prison for undertaking abortion. The law has recognized the right to reproductive choice of all Nepali women irrespective of their marital or other status, and no spousal authorization is required *per se* to receive abortion services. Furthermore, to protect women from forced abortion, the law specifically requires women's voluntary consent as a prerequisite to undertaking abortion. Enforcement of the abortion law is

governed under the Safe Abortion Service Procedure 2003. In the case of pregnancy by rape or incest, the Service Procedure prevents further victimization of rape or incest victims, which may include the persons who are forcefully involved in the flesh trade and become pregnant, by ensuring the availability of abortion services simply on the basis of the women's statement. In addition, the Service Procedure requires service providers to provide adequate counselling to women seeking abortion services.

**Moving forward:** The existing laws and procedures on abortion in Nepal are adequate.

**Policy:** The abortion law specifically addresses national policies to reduce the maternal mortality of women in Nepal, although legalization of abortion is not mentioned in those policies.

**Moving forward:** Although Nepal's legislation and policy environment is favourable, the number of repeat abortions by workers in the entertainment and sex industries is a concern. Protection policy needs to address ways in which women can resist rape and violence, and be empowered to effectively negotiate condom use.

## CHILD LABOUR

**Legislation:** Nepal law effectively prohibits child labour in the entertainment industry, although it does not address children between ages 16 and 18. All persons under the age of 16 are forbidden by the Child Labour (Prohibition and

Regulation) Act 2053 to work in restaurants, bars and pubs, deeming this to be a 'hazardous occupation or work'.

**Moving forward:** Because of the long working hours and the presence of alcohol and sexually-related activities in the entertainment industry, the Act should be reviewed and revised to prohibit the employment of children between the ages of 16 and 18 in the entertainment industry.

**Policy:** Reducing child labour and eradicating the worst forms of child labour are primary objectives of Nepal's National Plan of Action for Children 2004/05-2014/15. However, the Plan presents insufficient strategies to apprehend and punish those who illegally employ children. The Master Plan on Child Labour 2004-2014 defines work in bars and restaurants as one of the worst forms of child labour. The Plan is comprehensive, although it does not clearly indicate parameters for labour inspection and other mechanisms to enforce child labour laws.

**Moving forward:** While legislation and policy exist, implementation of actions to prohibit of child labour in the entertainment industry is slow. NGOs are primarily responsible for the withdrawal of children from child labour, while government actions to inspect labour situations and to prosecute offenders are limited. A revised national policy for the protection of women and children should address the gaps in the NPA for Children and the Master Plan on Child Labour, particularly by clarifying functional mechanisms for labour inspection

and strengthening government to prosecute those who employ children in the entertainment industry.

## LABOUR ISSUES

**Legislation:** Nepal's legislation covers the majority of concerns regarding labour issues in the entertainment industry, although the legislation is not enforced. Forced labour 'in any form' is expressly prohibited by Article 29 of the Interim Constitution of Nepal. However, the mechanisms of forced labour in the entertainment industry – such as being forbidden to quit without finding a replacement or being compelled to sit and drink with customers – escape the provisions of the law. Workplace issues, with the exception of sexual harassment, are addressed by the Nepal Labour Act 1992. Among else, the Act states that employees shall be provided appointment letters (almost none are), shall not work more than 48 hours per week (almost all do), and 'shall be paid overtime wages at the rate of one and one-half of his ordinary rate of wages' (almost none are). The Act also requires other things that are routinely denied entertainment industry workers, such as a workplace with 'adequate fresh air and light', the provision of one day of holiday per week, intervals for 'refreshment and rest', maternity leave, compensation for injury, medical expenses and a provident fund.

**Moving forward:** While the legislation is adequately comprehensive to provide entertainment workers with basic labour rights and facilities, there are insufficient government mechanisms to enforce the

laws and inadequate punishment for offending proprietors/managers Labour inspectors are lacking. Only one Labour Officer is designated per region to fulfill the objectives of the Act. The Labour Regulation Act 1993, which stipulates the powers, functions and duties of the Labour Officer, needs review and revision to ensure an adequate number of government personnel for inspection and regulation, and to clarify the tasks of those persons so that they may effectively regulate workplace conditions. The Nepal Labour Act needs review and revision to among other things, strengthen the penalties against employers for abuse of basic labour rights as stipulated in the Act.

**Policy:** The Nepal government developed a National Labour Policy in 1999. In its plan of action for implementation, the policy makes reference to ending gender discrimination in employment and providing women with access to technical and skill programmes. However, the policy does not provide clear strategies and responsibilities for review of legislation, and particularly for the regulation and enforcement of labour law.

**Moving forward:** Labour policy needs to be reviewed with regard to developing and strengthening mechanisms to ensure adequate regulation and enforcement of labour law in Nepal.

## JUSTICE FOR CHILDREN

**Legislation:** While international norms and standards strongly demand that detention should be used as a measure of last resort and for the shortest possible time,<sup>157</sup> domestic laws do not protect children (whether they are offenders, victims or witnesses) adequately.<sup>158</sup> A recent study revealed that the system was overly dependent on custodial measures by the police. The study findings suggest that children are frequently held in detention without charge, not brought before required authorities within 24 hours, denied access to legal or other appropriate assistance, placed in detention for petty crimes and held indefinitely while awaiting or undergoing trial.

**Moving forward:** As the time of this writing, the Nepal Government was in legislative reform process on child protection, including on juvenile justice. The Child Rights Protection and Promotion Act is in the final stage of drafting. One of the major achievements in the bill is the alignment with the age of majority enshrined in the CRC (18 years old). The draft Act brings in the concept of diversion which can be performed at three levels: police, Government Attorney or the Court. Other restorative justice concepts have also been introduced but not completely. Once the Bill is approved by the Constituent Assembly, more detailed rules and regulations will be adopted.

**Policy:** The practice of placing “young prostitutes” in custody reportedly to “teach them a lesson” is a human rights violation as such. Conditions in most detention facilities are below minimum standards and children are often detained alongside adult prisoners. In addition to being exposed to the poor conditions of overcrowded detention facilities, children are at risk of physical and sexual violence and abuse. They lose the guidance and support of their families and communities and their education is interrupted.

**Moving forward:** UNICEF has launched a juvenile justice project with the following objectives : (1) access to justice, meaning increase practical legal knowledge of children, families, communities and service providers with the aim of empowering them in seeking justice for children; support to community-based legal and paralegal services for all children who come into contact with the justice system; and support to the government to establish child and gender-sensitive procedures and methods that ensure children’s participation in the justice process, protection of their rights and the provision of appropriate services (i.e. psychosocial counseling, legal assistance, referrals to health facilities etc.). (2) Promoting alternatives to custodial responses, i.e. support to the establishment of mechanisms and procedures for diversion, restorative justice and alternatives to custodial sentencing, with the aim of promoting the child’s reintegration into society in line with the principle of deprivation of liberty as a measure

of last resort. (3) Monitoring and reporting mainly by obtaining systematic and disaggregated data on the number and situation of children who come into contact with the justice system, which will help inform practice and increase accountability.

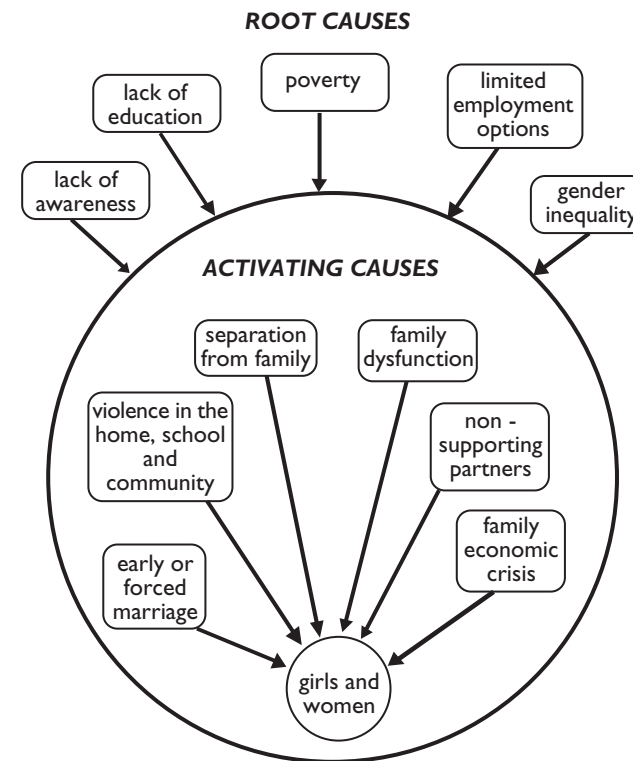
# PREVENTING TRAFFICKING AND EXPLOITATION

## ADDRESSING THE ROOT CAUSES

The root causes of trafficking and exploitation will take decades to fully address. Poverty is being addressed in multiple ways, including the government's Poverty Alleviation Fund, which seeks to prevent trafficking through the reduction of poverty among women and marginalized groups. Educational reform and expanding access to education for girl children and marginalized children, as strategized in Nepal's Education for All National Plan of Action, will in time provide basic education to a large proportion of the population. NGOs and legal groups have successfully brought about significant changes in the country's legislation to reduce gender discrimination. National and international organisations are working to raise awareness of trafficking and exploitation across the country.

At the same time, structural changes do not come easily. The gap between the rich and poor is widening, urban poverty is growing, and corruption remains a concern. Given the present climate of politics and unionism, the future of investment in employment-producing industry is not bright. While primary education may soon reach many, secondary education for all – as well as training in occupational skills – will remain limited for some time. Although changes in legislation and awareness for girls and women have driven a wedge into the multiple

## THE CAUSES OF TRAFFICKING AND EXPLOITATION



forms of gender discrimination, prejudice prevails in the home, workplace and school, and men and boys have yet to be addressed by awareness programmes. While awareness of trafficking has reached some of the most distant populations in the country, awareness of trafficking alone does not eradicate it – few of those who traffic and exploit persons are brought to justice.

### **ADDRESSING THE ACTIVATING CAUSES**

The factors that damage a child's 'safety net' and make the child an easy victim for traffickers, abusers and exploiters are not broad structural problems. With the exception of civil conflict and natural disasters, the 'activating causes' are problems within the *individual* family and community. Most families in Nepal are poor, but few are desperate because of a personal economic crisis. Most families are stable, but some families are plagued with alcoholism, bigamy, domestic violence and divorce. Most children live with their families, but a few are abandoned, run away or are sent off to worst forms of child labour. Most children and women experience little physical, emotional or sexual violence in their lives, but violence affects some in all corners of the country, in homes, workplaces and schools.

The activating causes are primarily individual family and community social problems, and the remedy is social work. Few in Nepal understand that 'social work' is an occupation, like medicine, counselling or teaching, that is conducted by professionals and para-professionals. It is the role of the social worker, whether government or civil, to identify social problems

in families and communities, and engage directly to solve those problems. Nepal has few institutions that teach practical social work, and most social work interventions are conducted by individuals and women's groups who have had no professional training. At the same time, among women's groups, NGOs, legal organisations and the media – as well as the decision-makers who will revise Nepal's NPA on trafficking and exploitation – there is a high level of awareness of the presence of 'social problems'. It remains for government, NGOs, donors and educational institutions to take a proactive role in training and mobilizing professional and para-professional social workers throughout Nepal, in order to address the activating causes of trafficking and exploitation.

### **STRENGTHENING THE PROTECTION SYSTEM**

For minors who are involved in worst forms of child labour such as providing sexual massages and other sexual services in cabin restaurants, dance bars, guest houses and dohoris, this document first recommends the deployment of national leadership.

### **ONE NATIONAL CHILD PROTECTION AGENCY**

There is currently a Central Child Welfare Board which fulfills some protection functions. However, its protection role is not prominent and favors a welfare approach which is consistent with the name of the organisation. It is strongly recommended that one agency be entrusted with responsibility for overseeing the implementation of a national child protection law and policy, a family welfare policy and the provision of statutory



services. It is critical that one agency has responsibility for overseeing the implementation of a national child protection law and policy (advocating for the enactment of, where there is none, should be part of the systems-building and system-maintaining process) and family welfare policy. The single child protection agency should be the agency that also carries the statutory power and responsibility for responding to cases of child maltreatment (providing child protective services).

While the designated child protection agency is responsible for overseeing the implementation of national child protection policy and provision of statutory services, many other agencies (government, civil society or private sector) also provide services throughout the primary, secondary and tertiary levels (see page 69) and contribute to the positive outcomes of the system. These services may be provided through contracts between the designated national agency and civil society or other agencies. The national agency will then be responsible for setting standards and monitoring quality and consistency of services.

The important aspect of the single agency authorized and responsible for overseeing the national implementation of the child protection policy is that it has a precise mandate ranging from policy and standards development to service delivery – all coherently connected. Without this, there is a possibility of different approaches and responses to child protection at best; at worst, a lack of recognition of the importance of child protection.

There are a number of other advantages to having a single agency. One, it provides for clearer accountability. Two, it is easier to link structure and policy with practice at the local level. Three, it is less difficult to allocate recurrent fenced budgets and resources. And four, one child protection agency should provide the leadership necessary to spearhead the development and continuous improvement of a social welfare system for children and families. The designated national child protection agency represents the leadership of the State in making sure that children are cared for, safe and protected. In order for the agency to be effective, there must be staff with sufficient knowledge and experience to make competent decisions at every level.

The agency should have well-defined responsibilities, including a mandate for making reports of child abuse and for preventing and responding to child protection issues. Who is responsible for responding to reports of child abuse should be clear to all – professionals, workers and children – with a clear articulation of the expected actions deemed necessary once a case is reported, including who can make decisions on the case (in particular, closing the case or taking no further action). Appropriate qualified and experienced practitioners are needed at all levels of services but especially for the tertiary interventions. Child protection and welfare work can be extremely difficult, often with especially complex cases. To be successful, social workers and other professionals need allocated time, knowledge and skills, together with appropriate support and supervision.<sup>159</sup>

## WHAT SHOULD BE THE PRIORITY?

The situation with minors in exploitative situations appears to be out of control. As one police officer said in relation to recent arrests in Thamel: “The latest arrests indicate children’s involvement in sex trade is beyond control, and if not timely addressed it can reach to an alarming state in the near future, whereupon recovering from the damage incurred can be next to impossible.”<sup>160</sup>

Realizing the urgency of the situation, the writers and their partners call for 10 immediate actions on the response side, with a particular focus on children in commercial sexual exploitation:

- 1** Ban the application of the “Public Offence Act” to minors found in exploitative and abusive situations and instead focus on prosecuting the owners, pimps and clients.
- 2** Actively locate such minors through social workers and other means; when such minors are found and their age is uncertain or doubtful, systematically determine their age through safe and efficient means.
- 3** Prohibit the exchange of money for the release of minors arrested under the “Public Offence Act” or other legislation.
- 4** If girls and women are arrested, provide systematic individual counselling to girls and women in a confidential setting.
- 5** Arrange full and unhindered access to public defence lawyers.
- 6** Formally refer minors to government-run “Rehabilitation Homes” or accredited non-governmental shelters with appropriate funding for integration, including education and alternative employment.
- 7** Promote the use of the “Human Trafficking and Transportation Control Act” on all internal or cross-border trafficking cases including the penalties for clients.

8

Amend the legislation through establishing commercial sexual exploitation as a separate offence and in the meantime apply the rape provision.

9

Ensure that a separate National Plan of Action is drawn up for children covering all issues related to children in commercial sexual exploitation and other forms of child labour.

10

Make the fight against CSEC a national priority and call for a nation-wide alert system (sometimes called an 'Amber Alert') to ensure that commercial sexual exploitation of children is eradicated.<sup>161</sup> Senior Government officials and CA members to reiterate their commitment to the Convention on the Rights of the Child (Articles 34 and 35) which states that all children should be protected from all forms of exploitation and sexual abuse including the exploitative use of children in prostitution, pornography and trafficking.

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## INTERNATIONAL AND REGIONAL COMMITMENTS

## ANNEX I.

Under the Nepal Treaty Act 1990, international instruments to which Nepal is party have the force of law in Nepal, and the provisions of international instruments prevail over domestic law where the two conflict.<sup>162</sup> The Supreme Court has ruled that the provisions of international instruments to which Nepal is a party supersede domestic law.

### INTERNATIONAL COMMITMENTS

Nepal has undertaken the following international commitments, whether binding in international law or non-binding:

- Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery, 1956 (ratified in 1963)
- UN Convention on the Rights of Child (CRC), 1989 (ratified in 1990)
- UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979 (ratified in 1991)
- Stockholm Declaration and Agenda for Action, 1996 (party to the Declaration)
- ILO Minimum Age Convention (No. 138) on Minimum Age for Admission to Employment, 1973 (ratified in 1997)
- ILO Convention (No. 182) on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (ratified in 2000)
- ILO Forced Labour Convention (No. 29) on Forced or Compulsory Labour, 1930 (ratified in 2001)
- Yokohama Global Commitment on the Commercial Sexual Exploitation of Children, 2001 (party to the Commitment)
- UNGASS Declaration, A World Fit for Children, 2002 (party to the Declaration)
- Optional Protocol of the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000 (ratified in 2005)
- Optional Protocol of the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000 (ratified in 2005)

- Optional Protocol of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), 1979 (ratified in 2005)

Nepal has not signed or ratified the international instruments below:

- United Nations Convention against Transnational Organized Crime, 2000
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, 2000 (Palermo Protocol)

## **REGIONAL COMMITMENTS**

Nepal has undertaken the following regional commitments:

- SAARC Bangalore Declaration on Children, 1986 (party to the Declaration)
- SAARC Colombo Declaration on Children, 1992 (party to the Declaration)
- SAARC Convention for Preventing and Combatting Trafficking in Women and Children for Prostitution, 2002 (signed in 2005)

- SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002 (signed in 2005)

## JUDICIAL DECISIONS AND DIRECTIVES, NATIONAL LEGISLATION, REGULATION AND POLICY

## ANNEX II.

### SUPREME COURT DECISIONS

***FWLD vs. HMG/Nepal, Supreme Court, Bulletin 2058 B.S. Vol. 19, p.1.*** When the discriminatory provision that requires special approval for women seeking foreign employment was challenged in the Supreme court of Nepal, arguing it violates the fundamental right to equality guaranteed by the then Constitution of the Kingdom of Nepal, 1990, the Supreme Court validated the provision on the basis of the constitutional provision which allows the enactment of special laws for the protection of women.

***Sapana Pradhan Malla for FWLD v. GoN, Writ no. 56/2058 of 2058.*** In this key case challenging the lower penalty for those who rape a 'prostitute', the Supreme Court held that sex work is like any other profession, and that no discrimination could be made on the basis of sex work.

***Sharmila Prajuli, Shova Shah and others v. GoN, Writ no. 3434 of 2060.*** As a result of this case, the Supreme Court ordered the government to take "necessary steps" and initiatives to enact appropriate laws relating to sexual harassment.

***Sapana Pradhan Malla for FWLD v. GoN, Writ no. 3561 of 2063.*** In its ruling, the Supreme Court upheld the right of privacy as per the Interim Constitution (see below).

***Pro-public v. GoN, Writ no. 2822 of 2065.*** In its ruling, the Supreme Court upheld the rights of women to freedom from violence and harassment, as per the Interim Constitution (see below).

### SUPREME COURT DIRECTIVES

***Directives to Protect Confidentiality.*** Based on the writ petition filed by the Forum for Women, Law and Development (*Sapana Pradhan Malla for FWLD v. GoN, Writ no. 3561 of 2063*), the Supreme Court issued a directive order to enact appropriate laws to protect the confidentiality of women, children and other parties the judicial proceedings of sensitive cases like violence, HIV infection and sexual offences.

***Directives to Control Sexual Harassment towards Working Women in Work-Places such as Dance Restaurants, Dance Bars, 2065.*** Following the writ petition filed by Pro-public (*Pro-public v. GoN, Writ no. 2822 of 2065*) and the review of a study report on cabin and dance restaurants and massage parlours facilitated by the Ministry of Women, Children and Social Welfare, the Supreme Court issued a directive order requiring the government to enact a separate and appropriate law for protecting the rights of women working in cabin and dance restaurants and massage parlours. The writ also demanded guidelines to end all kinds of sexual and economic exploitation against women workers.

## **LEGISLATION**

An Act to Amend Some Nepal Acts for Maintaining Gender Equality, 2063 (2006)

Birth, Death, and Personal Events (Registration) Act, 2033 (1977)

Child Labour (Prohibition and Regulation) Act, 2057 (2000)

Children's Act, 2048 (1992)

Constitution of the Kingdom of Nepal, 2048 (1990)

Country Code (Muluki Ain), 2020 (1963)

Defamation and Libel Act, 2016 (1989)

Hotel Management and Liquor Selling (Control) Act, 2023 (1967)

Human Trafficking and Transportation (Control) Act, 2064 (2007)

Infectious Disease (Control) Act, 2020 (1963)

Interim Constitution of Nepal, 2063 (2007)

Labour Act, 2048 (1992)

Liquor Act, 2031 (1974)

Nepal Treaty Act, 2047 (1990)

Press and Publication Act, 2048 (1991)

Some Public (Offences and Penalties) Act, 2027 (1970)

## **REGULATIONS**

Child Labor (Prohibition and Regulation) Act, 2056 (2000)

Children (Development and Rehabilitation) Fund Regulation, 2053 (1995)

Children's Regulation, 2051 (1994)

Civil Service Regulation, 2050 (1993)

Education Regulation, 2059 (2002)

Health Services Regulation, 2055 (1998)

Human Trafficking (Control) Regulation, 2065 (2008)

Labour Regulation, 2050 (1993)

Nepal Citizenship Regulation, 2063 (2006)

Nepal Health Professional Council Regulation, 2056 (1999)

Nepal Medical Council Regulation, 2024 (1967)

Nepal Nursing Council Regulation, 2053 (1996)

## **SERVICE PROCEDURE**

Safe Abortion Service Procedure, 2060 (2003)

## **POLICIES AND INITIATIVES**

National HIV/AIDS Strategy 2006 - 2011

National Labour Policy 1999

National Master Plan on Child Labour 2004 - 2014

National Plan of Action for Children 2004/05 - 2014/15

National Plan of Action for Combatting Against Trafficking in Children and Women for Sexual and Labour Exploitation, revision 2001



National Plan of Action on CEDAW 2003

National Policy on HIV/AIDS in the Workplace 2008

Nepal Government Three-Year Interim Plan 2007/08 -  
2009/10

Second Long Term Strategic Health Plan 1997 – 2017

### **CODES OF CONDUCT**

Code of Conduct for Journalists, 2060 (2003)

Code of Conduct for Night Time Entertainment Industry,  
2065 (2009)

Code of Ethics of the Nepal Medical Council, 2057 (2001)

Nepal Progressive Massage Workers' Union Central  
Committee Code of Conduct, 2009

Nepal Restaurants Entrepreneurs' Association Notice (Code  
of Conduct), 2009

## RESOURCES

Organisations or entities listed below do not necessarily endorse the contents of this Handbook. This list is being published for coordination purposes only.

### NGOS WORKING IN THE ENTERTAINMENT INDUSTRY

**Note:** This listing is not exhaustive. It does not include many NGOs working on cross-border trafficking or with street children, child labourers, and other children and women in difficult circumstances. NGOs such as ABC Nepal, CWIN, Sath Sath, CWISH and others make a substantial contribution to child and women protection, but are not included here because they are not primarily focused on protection in the entertainment and sex industries in Nepal.

Bishwas Nepal. Niru Shrestha, Co-chairperson. Shankata, Tebahal, New Road. Tel: 622-1852. Email: [bws\\_nepal@hotmail.com](mailto:bws_nepal@hotmail.com). Activities: labour issues; organisation of entertainment workers; working with employers; support for girls and women who stay in the entertainment industry; legal support; awareness activities. Working area: Kathmandu Valley.

Change Nepal. Naresh Pradhan, Chairperson. Pramesh Pradhan, Programme Manager. POB 21330, Thamel, Kathmandu. Tel: 425-7813, 691-2377. Email: [changenepal@mail.com.np](mailto:changenepal@mail.com.np). Web: [www.changenepal.org](http://www.changenepal.org). Activities: outreach support to girls and women in the entertainment industry, including counselling, health, vocational training and education; care

## ANNEX III.

for children of entertainment workers; withdrawal and integration of children and trafficked persons from the entertainment industry; advocacy with the government; awareness activities. Working area: Thamel, Balaju, Baneshwor.

Community Action Centre (CAC). Tulasa Lata Amatya, President. POB 8234, Kantipath, Kathmandu. Tel: 437-5086. Email: [cac\\_nepal@cac\\_nepal.wlink.com.np](mailto:cac_nepal@cac_nepal.wlink.com.np). Activities: support for those in the entertainment industry, including vocational training, harm reduction, leadership training, health support. CAC is focused on the prevention of and response to HIV/AIDS and STIs. It operates two DICs, in Bhaktapur and Kathmandu.

Helpline. Archana Sharma, Chairperson. Baluwatar, Kathmandu. Tel: 620-5039, 435-0777. Email: [helpline.2052@gmail.com](mailto:helpline.2052@gmail.com). Activities: operates a residential care facility for rescued/withdrawn persons; rescue, interception and withdrawal of children and internally trafficked persons; support for girls/women who have been withdrawn, including education, health, legal support and social integration. Working area: Gongabu Bus Park.

Jagriti Mahila Sangh (JMS). Bijaya Dhakal, Chairperson. Saru Dhungana, Secretary. Dhobi Khola, Battisputali, Kathmandu. Tel: 210-0680. Email: [jagritimahilasangh@gmail.com](mailto:jagritimahilasangh@gmail.com). JMS is primarily a network of organised groups of women who want to exit the sex industry. It also works with victims of violence

against women. Activities: sex worker rights and welfare of entertainment workers; provision of alternatives to the sex work profession; outreach support and referral to services for girls and women in the entertainment industry; training and awareness for police. Working area: Kathmandu Valley.

Maiti Nepal. Anuradha Koirala, President. Bishwo Khadka, Director. Anoop Gurung, Administrative Officer. POB 9599, Pingalsthan, Gaushala, Kathmandu. Tel: 449-2904, 449-4816. Email: [maiti@csl.com.np](mailto:maiti@csl.com.np). Web: [www.maitinepal.org](http://www.maitinepal.org). Maiti Nepal was instrumental in early activities with the entertainment industry, and many of its former outreach activities are now conducted by organisations which it developed, including Bishwas Nepal. Activities: awareness/advocacy; interception, rescue and withdrawal of children and trafficked persons; residential care for rescued/withdrawn persons; peer mobilization and awareness (through regional Youth Partnership Project); research. Working area: national.

Meet Nepal. Madan Karna, Chairperson. POB 9167, Katyayani Chowk, Old Baneswor, Kathmandu. Tel: 97411-68486. Activities: the organisation has in the past worked with girls and women in the entertainment industry. Its present activities could not be confirmed.

Rakshya Nepal. Menuka Thapa, Chairperson. POB 24866, Lainchaur, Kathmandu. Tel: 443-7552. Email: [protection.nepal@gmail.com](mailto:protection.nepal@gmail.com), [info@rakshanepal.org.np](mailto:info@rakshanepal.org.np) Web: [www.rakshanepal.org.np](http://www.rakshanepal.org.np). Rakshya Nepal is focused on massage parlours. Activities: withdrawal

through vocational training for girls and women in the entertainment industry; rescue of children and trafficked persons from the entertainment industry; legal support; awareness for entrepreneurs; awareness training for girls and women in the entertainment industry; advocacy with the government; drop-in service facilities. Working area: Thamel.

Saathi. Bandana Rana, President. Sulakshana Rana, Programme Coordinator. POB 7770, Ekantaguna, Lalitpur. Tel: 555-4560, 500-0063. Email: [vaw@saathi.wlink.com.np](mailto:vaw@saathi.wlink.com.np). Web: [www.saathi.org.np](http://www.saathi.org.np). Activities: operates two drop-in service centres (Koteswor, Gwarko); support and training for girls and women who have withdrawn from the entertainment industry; NFE, health support, legal support for those in the entertainment industry; awareness for entrepreneurs; residential care for rescued/withdrawn persons (but few from the entertainment industry); advocacy on trafficking and sex work issues; research. Working area: Naikap, Kalanki, Kalimati, Tripureswor, Balkhu, Koteswor, Tinkune, Balkumari, Gwarko.

Sahayatri Nepal. Abha Shrestha, Chairperson. POB 8975, Koteswor, Kathmandu. Tel: 460-0342. Email: [sahayatrinepal@yahoo.com](mailto:sahayatrinepal@yahoo.com). Web: [www.sahayatrinepal.org.np](http://www.sahayatrinepal.org.np). Activities: outreach support for girls/women who stay in the entertainment industry; drop-in service facilities, including counselling, and health and HIV/AIDS awareness; awareness for entrepreneurs; public awareness activities. Working area: Koteswor, Jadibuti, Tinkune, Balkumari, Gwarko.

Samrakshak Samuha Nepal. Puja Dhimal, Chairperson. Shyam Kumar Pokhrel, Director. Dillibazaar, Kathmandu. Tel: 477-0151. Email: [sasanepal@gmail.com](mailto:sasanepal@gmail.com). Activities: withdrawal of girls and women from the entertainment industry; support and training for girls/women who have withdrawn from the entertainment industry; training of withdrawn persons as 'legal facilitators' to assist others in the entertainment industry; training of withdrawn persons as journalists with Rastriya Samachar Samiti; advocacy for including sex workers and survivors in constitution-building process; research. Working area: Kathmandu Valley.

Shakti Milan Samaj. Sarita Shrestha, President. Goma (Natisara) Rai, Programme Coordinator. Gaurighat, Kathmandu. Tel: 446-7804. Email: [shaktimilan@wlink.com.np](mailto:shaktimilan@wlink.com.np). Web: [www.shaktimilan.org.np](http://www.shaktimilan.org.np). Activities: primarily focused on treatment and care of HIV+ women and girls, and their children; operates one training and care centre, and one crisis care centre for HIV+ women and girls, and their children; referral to medical services for PLWHA; public awareness on HIV/AIDS; orientation and training to NGOs and others on HIV/AIDS; educational and vocational support for HIV+ women and girls and their children; rights and empowerment of PLWHA. Working area: Kathmandu Valley.

Shakti Samuha. Charimaya Tamang, Chairperson. Heera Dahal, Programme Officer. POB 19488, Gaurighat, Kathmandu. Tel: 449-4815. Email: [shakti@samuha.wlink.com.np](mailto:shakti@samuha.wlink.com.np). Web: [www.shaktisamuha.org.np](http://www.shaktisamuha.org.np). Activities: rescue/withdrawal of children and trafficked persons; residential care for rescued/withdrawn persons; community-based support for trafficking survivors;

outreach support to girls and women in the entertainment industry; training and awareness for police; legal support; awareness activities; advocacy with the government; research. Working area: Chabahil, Gausala, Old Baneswor, Sinamangal.

Society for Women's Awareness Nepal (SWAN). Mingma Lama, Chairperson. Shova Dangol, Programme Coordinator. Babarmahal, Kathmandu. Tel: 423-3801. Email: [swannet@ntc.net.np](mailto:swannet@ntc.net.np). Activities: sex worker rights and welfare; drop-in service facilities; HIV/AIDS awareness for sex workers; referral for vocational training, legal support, etc.; advocacy against violence against entertainment workers; advocacy with the government; outreach. Working area: Kathmandu Valley.

STD/AIDS Counselling and Training Services (SACTS). Dr Vijaya Lal Gurubacharya, Director. POB 24319, Thapathali, Kathmandu. Tel: 200-2172, 424-6612. Email: [sacts\\_vct@ntc.net.np](mailto:sacts_vct@ntc.net.np). Web: [www.sactsnepal.org](http://www.sactsnepal.org). Activities: SACTS is the primary place of referral in Kathmandu for entertainment workers for VCT.

Step Nepal. Jyotsana Shrestha, Chairperson. Neela Thapa, Project Coordinator. POB 8975, Jawalakhel, Lalitpur. Tel: 554-6601, 552-4316. Email: [stepnepal@wlink.com.np](mailto:stepnepal@wlink.com.np). Step is focused on the prevention of and response to HIV/AIDS and STIs. Activities: outreach to girls and women in the entertainment industry related to HIV/AIDS prevention; referral to health services. Working area: Balaju, Thamel, Chabahil, other Kathmandu Valley.

Sundhar Nepal. Rajendra Ramtel, Chairperson. Thamel, Kathmandu. Tel: 219-1299. Email: [ramtel8@gmail.com](mailto:ramtel8@gmail.com). Activities: support for girls/women who stay in the entertainment industry; advocacy on the rights of sex workers; referral to counselling and health services; outreach peer education for girls and women in the entertainment industry; vocational training as alternative to entertainment work; non-formal education. Working area: Thamel, Balaju.

Women Acting Together for Change (WATCH). Sarmila Shrestha, Executive Member, Programme Facilitator. POB 11321, Dhobikhola, Battisputali. Tel:449-2644. Email: [watchftp@wlink.com.np](mailto:watchftp@wlink.com.np). Web: [www.watch.org.np](http://www.watch.org.np). Activities: WATCH has no present programmes directly addressing girls and women in the entertainment industry. However, the organisation's promotion of organisations of sex workers has led to the establishment of presently active NGOs and networks, including Society for Women's Awareness Nepal and Jagriti Mahila Sangh.

Women Forum for Women (WFW). Sirjana Pun, Chairperson. Gongabu, Kathmandu. Tel: 438-1686. Email: [worec.chahari@gmail.com](mailto:worec.chahari@gmail.com). WFW, an organisation of entertainment workers, was established through WOREC's Chahari Project. Activities: drop-in service facilities; care for children of entertainment workers; support for girls/women who stay in the entertainment industry, including rights awareness, peer education, NFE and vocational training; rescue/withdrawal of children and trafficked persons; sex worker rights and welfare; health concerns; awareness activities; advocacy with the government. Working area:

Gongabu, Balaju, Thamel, Sundhara, Bagbazaar, Koteswor, Gwarko, Sinamangal, Baneswor, Kalanki.

Women Rehabilitation Centre (WOREC). Dr. Renu Rajbhandari, Chairperson. Rachana Shrestha, Programme Coordinator. Sudha Jirel, Program Officer. POB 13233, Balkumari, Lalitpur. Tel: 500-6373, 500-6374, 438-1686. Email: [worec@wlink.com.np](mailto:worec@wlink.com.np), [worec.chahari@gmail.com](mailto:worec.chahari@gmail.com). Web: [www.worecnepal.org](http://www.worecnepal.org). Activities: WOREC conducts many activities in the entertainment industry through its Chahari Project, conducted through Women Forum for Women (see above). WOREC also conducts public awareness activities on issues of violence against women and children, as well as advocacy with the government.

## **ORGANISATIONS PROVIDING LEGAL SUPPORT AND ADVOCACY**

Advocacy Forum. Mandira Sharma, Executive Director. Sumedha Shakya, Legal Officer. POB 21798, Shantiniketan Marg, Gairidhara, Kathmandu. Tel: 441-5789, 440-4404, 441-5646. Fax: 443-7440. Email: [info@advocacyforum.org.np](mailto:info@advocacyforum.org.np). Web: [www.advocacyforum.org.np](http://www.advocacyforum.org.np).

Centre for Legal Research and Resource Development (CeLRRd). Geeta Pathak, Executive Director. POB 6618, Dadhikot-9, Bhaktapur. Tel: 663-3519, 204-2268, 663-4455, 663-4663. Email: [celrrd@wlink.com.np](mailto:celrrd@wlink.com.np). Web: [www.celrrd.com](http://www.celrrd.com).

Forum for Women, Law and Development (FWLD). Sapana Pradhan-Malla, President. Rup Narayan Shrestha, Advocate. POB

26538, Thapathali, Kathmandu. Tel: 426-6415, 424-2683.  
Email: [fwld@fwld.wlink.com.np](mailto:fwld@fwld.wlink.com.np). Web: [www.fwld.org](http://www.fwld.org).

Himalayan Human Rights Monitors (HimRights). Anjana Shakya,  
Chairperson. Purna Shakya, Program Director. Dr Gopal  
Siwakoti, General Secretary. POB 4960, Pulchowk, Lalitpur.  
Tel: 555-5111, 555-4880. Email: [himrights@wlink.com.np](mailto:himrights@wlink.com.np).  
Web: [www.himrights.org](http://www.himrights.org).

Institute for Human Rights, Environment and Development  
(INHURED). Dr Gopal Krishna Siwakoti, President. POB  
12684, Sanepa, Jhamsikhel, Lalitpur. Tel: 552-0054. Fax: 552-  
0042. Email: [inhured@ntc.net.np](mailto:inhured@ntc.net.np). Web: [www.inhurednepal.org](http://www.inhurednepal.org).

International Legal Foundation - Nepal, Natalie Rea, Executive  
Director. Uma Bhaban, 1st Floor Surya Marg, No. 19, Babar Mahal,  
Kathmandu, Nepal. Tel: 422-3545. Email: [natalierea.ny@gmail.com](mailto:natalierea.ny@gmail.com).

Kathmandu District Court Bar Association. Ganesh Prasad Adhikari,  
President. Babar Mahal, Kathmandu. Tel: 425-4577. Email:  
[info@kdcbar.org.np](mailto:info@kdcbar.org.np). Web: [www.kathmandubar.org.np](http://www.kathmandubar.org.np).

Legal Aid and Consultancy Centre (LACC). Dr Shanta Thapalia,  
President. POB 3216, Pulchowk, Lalitpur. Tel: 552-7334,  
554-3111. Email: [lacc@wlink.com.np](mailto:lacc@wlink.com.np). Web: [www.laccnepal.com](http://www.laccnepal.com).

Nepal Bar Association. Biswakanta Mainali, President. Ramshahpath,  
Kathmandu. Tel: 425-4647. Fax: 426-2755. Email:  
[neba@wlink.com.np](mailto:neba@wlink.com.np). Web: [www.nepalbar.org](http://www.nepalbar.org).

## GOVERNMENT OF NEPAL

Central Child Welfare Board. Dharma Raj Shrestha, Executive  
Director. Raghunath Adhikari, Programme Manager.

Tel: 501-0045, 501-0046. Email: [contact@ccwb.gov.np](mailto:contact@ccwb.gov.np). Web:  
[www.ccwb.gov.np](http://www.ccwb.gov.np).

Department of Health Services, Ministry of Health. Dr Govinda  
Ojha, Director General, Department of Health Services.  
Ganeshman Singh Path, Teku, Kathmandu. Tel: 426-1436,  
426-2238. Email: [md@dhs.gov.np](mailto:md@dhs.gov.np). Web: [www.dhs.gov.np](http://www.dhs.gov.np).

Department of Labour. Amal Kiran Dhakal, Chairperson. Bhainsepati,  
Lalitpur. Tel: 559-0855.

Ministry of Home Affairs (MoHA). Dr. Govinda Kusum, Secretary.  
Shankar Prasad Koirala, Joint Secretary. Basanta R. Bhattarai,  
Under Secretary. Singha Durbar, Kathmandu. Tel: 421-1206,  
421-1204, 421-1252. Email: [info@moha.gov.np](mailto:info@moha.gov.np). Web:  
[www.moha.gov.np](http://www.moha.gov.np).

Ministry of Labour and Transportation Management. Yuv Raj Pande,  
Secretary. Prajwol Sharma Aryal, Under Secretary. Radhika  
Aryal, Section Officer. Singha Durbar, Kathmandu. Tel: 424-  
7842, 424-1963, 421-1791. Email: [info@moltm.gov.np](mailto:info@moltm.gov.np). Web:  
[www.moltm.gov.np](http://www.moltm.gov.np).

Ministry of Women, Children and Social Welfare. Bindra Hada,  
Secretary. Ratnakaji Bajracharya, Joint Secretary. Sunita  
Nepal, Section Officer. Singha Durbar, Kathmandu. Tel: 424-1516,

424-1728. 424-1613. Email: [mail@mowcsw.gov.np](mailto:mail@mowcsw.gov.np),  
[ministry@wsw.mos.com.np](mailto:ministry@wsw.mos.com.np). Web: [www.mowcsw.gov.np](http://www.mowcsw.gov.np).

National Centre for AIDS and STD Control. Dr Laxmi Raj Phathak,  
Director. Teku Hospital, Teku, Kathmandu. Tel: 426-1653,  
425-8219. Email: [ncasc@ntc.net.np](mailto:ncasc@ntc.net.np).

National Centre for Children at Risk. Insp. Malati Shahi, Office In  
Charge. Latish Karki, Sub Inspector. Bhrikuti Mandap,  
Kathmandu. Tel: 422-6006. Fax: 423-3007. Email:  
[ccnep@wlink.com.np](mailto:ccnep@wlink.com.np).

National Human Rights Commission, Office of the National Rapporteur  
on Trafficking of Women and Children (ONRT). Padma  
Mathema, National Rapporteur. Harihar Bhawan, Lalitpur.  
Tel: 552-5920, 552-5842. Email: [padma.mathema@nhrc-nepal.org.np](mailto:padma.mathema@nhrc-nepal.org.np).  
Web: [www.nhrc-nepal.org.nepal](http://www.nhrc-nepal.org.nepal).

National Women's Commission. Nanikala Thapa, Chairperson.  
Ritu Raj Bhandari, Under Secretary. Bhadrakali Plaza,  
Kathmandu. Tel: 425-6701. Fax: 425-6783. Email: [nwc@htp.com.np](mailto:nwc@htp.com.np).

Women and Children Service Centre, Metropolitan Police  
Commissioner's Office. Leela Khand, Inspector. Kabir  
Pradhan, Sub Inspector. Ranipokhari, Kathmandu. Tel: 423-  
1466.

Women and Children Service Directorate, Nepal Police. DIG Parvati  
Thapa, Director. Police Headquarter, Naxal. Tel: 444-  
0582, 441-4745.

## **ENTREPRENEUR ASSOCIATIONS**

Nepal Dohori Entrepreneurs' Association. Prem Lama, President.  
Bagbazaar, Kathmandu. Tel: 98510-22746.

Nepal Progressive Massage Union. K.B. Lama, President. Thamel,  
Kathmandu. (this is an entrepreneurs association)

Nepal Restaurant Entrepreneurs Association (NREA). Manoj K.C.,  
President. Old Baneshwor, Kathmandu. Tel: 449-6871.

Night Entertainment Entrepreneurs' Association. Sameer Gurung,  
President. Durbar Marg, Kathmandu.

Restaurant and Bar Association of Nepal (ReBan). Tejendra Shrestha,  
President. POB 6908, Tripureswor, Kathmandu. Tel: 425-  
8890.

## **WORKERS ASSOCIATIONS**

All Nepal Trade Union Federation (Revolutionary), All Nepal Hotel  
and Restaurant Workers Association. Ramesh Pant,  
President. POB 26543, Koteswor, Kathmandu. Tel: 446-  
1793. Email: [majdoor2052@yahoo.com](mailto:majdoor2052@yahoo.com).

General Federation for Nepalese Trade Unions (GeFoNT), Nepal  
Independent Hotel Workers' Union. Kedar Prasad Aryal,  
President. Putalisadak, Kathmandu. Tel: 424-8072, 424-6437  
Ext: 303. Email: [hihwa@gefont.org](mailto:hihwa@gefont.org). Web: [www.gefont.org](http://www.gefont.org).

Nepal Trade Union Congress (NTUC), Restaurant Workers  
Association. Khem Raj Khadka, President. Shantinagar. Tel:  
410-7706.

## ANTI-TRAFFICKING NETWORKS

Alliance Against Trafficking of Women and Children in Nepal (AATWIN). Sunita Danuwar, President. Benu Gurung, Coordinator. POB 21080, Bijulibazar, Kathmandu. Tel: 446-9171, 424-0709. Email: [aatwin@wlink.com.np](mailto:aatwin@wlink.com.np).

Anti-Trafficking International Agencies Coordinating Group (IACG) c/o UNICEF and Terre des hommes Foundation, Joseph Aguetant, Delegate. Muna Basnyat, Anti-Trafficking Programme Coordinator. POB 2430, Jawalakhel, Lalitpur, Kathmandu. Tel: 555-5348, 552-3939. Email: [info@tdhnepal.org](mailto:info@tdhnepal.org).

Movement Against Women Trafficking and Child Prostitution (MAWTCP). Dr. Renu Rajbhandari, Chairperson. Dilli Bazaar, Chaarkhal, Kathmandu. Tel: 441-3934.

National Network Against Girl Trafficking (NNAGT). Shanta Sapkota, President. Dr Madhavi Singh, Executive Member. Narayan Kumar K.C., Programme Officer. POB 15142, Dillibazaar, Kathmandu. Tel: 442-2595. Email: [nnagt@wlink.com.np](mailto:nnagt@wlink.com.np). Web: [www.nnagt.org.np](http://www.nnagt.org.np).

## RESEARCH ORGANIZATIONS

Centre for Research on Environment, Health and Population Activities (CREHPA). Anand Tamang, Director. POB 9626, Kusunti, Lalitpur. Tel. 554-6487, 552-1717. Fax: 552-2724. Email: [crehpa@crehpa.wlink.com.np](mailto:crehpa@crehpa.wlink.com.np). Web: [www.crehpa.org.np](http://www.crehpa.org.np).

New ERA. Dr. Bal Gopal Baidya, Chairman. Siddhartha Man Tuladhar, Executive Director. POB 722, Rudramati Marg, Kalopool, Kathmandu. Tel: 441-3603, 442-3176. Fax: 441-9562. Email: [info@newera.wlink.com.np](mailto:info@newera.wlink.com.np). Web: [www.newera.com.np](http://www.newera.com.np).

## INTERNATIONAL AGENCIES

ActionAid Nepal. Bimal Phunyal, Country Director. Mona Sherpa, Programme Officer. POB 6257, Lazimpat, Kathmandu. Tel: 443-6477, 441-9115. Email: [mail@actionaidnepal.org](mailto:mail@actionaidnepal.org). Web: [www.actionaid.org/nepal](http://www.actionaid.org/nepal).

Association of International NGOs in Nepal. C/o Save the Children, China Town Complex, Bagh Durbar, Sundhara, Kathmandu. Tel: 422-2271, 422-2247. Email: [lucky@ain.org.np](mailto:lucky@ain.org.np).

Caritas Nepal. Pekoe Moktan, Executive Director. Rupa Rai, Head of Women Development Desk. Dhobighat, Lalitpur. Tel: 553-9344, 553-0439, 553-8172. Email: [caritas@caritas.mos.com.np](mailto:caritas@caritas.mos.com.np).

Family Health International. Jacqueline McPherson, Country Director. Ghairidhara, Kathmandu. Tel: 442-7540, 443-7173. Email: [jackie@fhi.org.np](mailto:jackie@fhi.org.np).

Free the Slaves. Binod Chapagain, Nepal Director. POB 12877, Kathmandu. Tel: 98511-10753. Email: [chapagain@freetheslaves.net](mailto:chapagain@freetheslaves.net).

International Labour Organisation. Narayan Bhattarai, National Project Coordinator. Anju Pandey, Programme Officer. POB 8971, Dhobighat, Lalitpur. Tel: 555-5777. Email: [kathmandu@ilo.org](mailto:kathmandu@ilo.org).



International Legal Foundation (see p. 110 above).

International Organisation for Migration. Sarat Das, Chief of Mission. UN House, Pulchowk, Lalitpur, Kathmandu. Tel: 552-3200 (ext: 1703). Email: [iomnepal@iom.int](mailto:iomnepal@iom.int).

Planète Enfants. Cecilia Conilleau, Country Director. Laxmi Joshi, Project Officer. POB 8975, Bishalnagar, Kathmandu. Tel: 441-0763, 441-4902. Email: [cecilia@pe-nepal.org](mailto:cecilia@pe-nepal.org).

Save the Children in Nepal. Sita Ghimire, Deputy Director – Protection. 6th Floor, JDA Office Complex, Ward #11, Bag Durbar, Sundhara, GPO Box 3394, Kathmandu. Tel: 422-9592, 425-8140, 425-8159, Email: [s.ghimire@savechildren-norway.org.nop](mailto:s.ghimire@savechildren-norway.org.nop).

Save the Children Sweden, Regional Office for South and Central Asia. Turid Heiberg, Director. POB 5850, Bagh Durbar, Sundhara, Kathmandu. Tel: 425-1389, 425-1627. Email: [rosca@sca.savethechildren.se](mailto:rosca@sca.savethechildren.se).

Terre des hommes Foundation (Lausanne, Switzerland). Joseph Aguezzant, Delegate. Muna Basnyat, Anti-Trafficking Programme Coordinator. POB 2430, Jawalakhel, Lalitpur, Kathmandu. Tel: 555-5348, 552-3939. Email: [info@tdhnepal.org](mailto:info@tdhnepal.org).

The Asia Foundation. George Varughese, Country Representative. Jannie Kwok, Program Associate. POB 935, Bhatbhateni, Kathmandu. Tel: 441-8345. Fax: 441-5881. Email: [info@taf.org.np](mailto:info@taf.org.np).

UNAIDS. Elena Filio-Borromeo, Country Coordinator. POB 107, UN House, Pulchowk, Lalitpur, Kathmandu. Tel: 552-3200. Email: [unaidsmos.com.np](mailto:unaidsmos.com.np).

UNDP. Lazima Onta, Gender Advisor. POB 1187, UN House, Pulchowk, Lalitpur, Kathmandu. Tel: 552-3200. Email: [registry.np@undp.org](mailto:registry.np@undp.org).

UNICEF Nepal. Joanne Doucet, Chief of Section, Child Protection. Bhanu Pathak, Child Protection Specialist, Child Protection. POB 1187, UN House, Pulchowk, Lalitpur, Kathmandu. Tel: 552-3200. Email: [jdoucet@unicef.org](mailto:jdoucet@unicef.org).

UNIFEM. Sangeeta Thapa, National Programme Officer. POB 107, Thapathali, Kathmandu. Tel: 425-5110, 425-4899. Email: [registry.unifem@unifem.org](mailto:registry.unifem@unifem.org), [sangeetathapa@unifem.wlink.com.np](mailto:sangeetathapa@unifem.wlink.com.np).

UNODC. Oliver Lermet, Programme Coordinator. UN House, Pulchowk, Lalitpur. Tel: 552-3200.

USAID. Madhuri Singh, Development Programme Specialist, Trafficking. POB 295, Brahma Cottage, Maharajgunj, Kathmandu. Tel: 400-7200. Email: [msingh@usaid.gov](mailto:msingh@usaid.gov).

World Education. Chij Shrestha, Director. Helen Sherpa, Programme Coordinator. Shrinkhala Thapa, Program Officer. POB 937, Rato Pul, Kathmandu. Tel: 442-2385, 442-2386. Email: [worldedu@mos.com.np](mailto:worldedu@mos.com.np).

## PERSONS INTERVIEWED

## ANNEX IV.

Aarati Chataut, television journalist, host, producer, director, scriptwriter.

Alliance against Trafficking in Women and Children in Nepal. Sunita Danuwar, President.

Advocacy Forum. Sumedha Shakya, Advocate.

Asha Nepal. Laxmi Puri, Coordinator for Shakti Samuha education, vocational training and job placement activities.

Bishwas Nepal. Niru Shrestha, Co-chairperson. Bal Kumari Ale, Secretary.

Change Nepal. Pramesh Pradhan, Programme Manager. Bima Joshi and Maiya koju

Programme Officer. Narmada Nepal, Outreach and NFE. Sangeeta Adhikari, Outreach and NFE. Parvati Subedi, Counsellor. Ganga Shrestha, Outreach and NFE.

Community Action Center. Tulsa Lata Amatya, President. Amit Shrestha, Field Supervisor. Amina Joshi, Programme Coordinator.

Ministry of Women, Children, and Social Welfare. Ratnakaji Bajracharya, Joint Secretary.

National Human Rights Commission. Padma Mathema, National Rapporteur on Trafficking.

Helpline. Archana Sharma, Chairperson.

Jagriti Mahila Sangh. Bijaya Dhakal, Chairperson. Saru Dhungana, Secretary. Urmila Chaudhari, Founder President. Ranju Rijal, Programme Coordinator.

Maiti Nepal. Anuradha Koirala, President. Bishwo Khadka, Director. Rajan Burlakoti, National Coordinator for Youth Partnership Project.

National Center for Children at Risk. Inspector Malati Shahi, Office Executive. Ramesh Thapa.

National Network against Girl Trafficking (NNAGT). Shanta Sapkota, President.

Navatara Kishori Sanjal. Bhagwati and Sabitri, members.

Nepal Pragatishil Massage Labour Union. K.B. Lama, President.

Nepali Times. Kunda Dixit, Editor.

Night Entertainment Entrepreneurs Association. Sameer Gurung, President.

Peace Rehabilitation Centre. Shanta Sapkota, Chairperson. Rakshya Nepal. Menuka Thapa, President. Goma Thapa, Vice President and Field Researcher.

Saathi. Sulkshana Rana, Project Officer. Uma Limbu, Outreach Officer, Saathi Drop-in Center, Koteswor. Rubina K.C. Outreach Officer, Saathi Drop-in Center, Kalanki.

Sahayatri Nepal. Abha Shrestha, Chairperson. Bindu Panta, Outreach Supervisor. Sushma Shrestha, Outreach Educator. Manju Bastakoti, Outreach Educator.

Sam Taylor. Bureau Chief, Agence France-Presse, Nepal.

Samrakshak Samuha Nepal. Shyam Kumar Pokhrel, Director. Puja Dhimal, Chairperson.

Save the Children in Nepal . Sita Ghimire, Deputy Director – Protection, Violence/Sexual Abuse and HIV/AIDS.

Shakti Milan Samaj. Savita Shrestha, President. Goma (Natisara) Rai, Programme Coordinator.

Shakti Samuha. Januka Bhattarai, President. Sunita Danuwar, Programme Coordinator. Hira Dahal, Programme Officer. Pratiksha Gurung, Field Officer.

Step Nepal. Jyotsana Shrestha, Chairperson. Nila Thapa, Programme Coordinator. Srikrishna Gopali, member.

Sundhar Nepal. Rajendra Ramtel, Chairperson.

Supreme Court of Nepal. Hon. Kalyan Shrestha, Justice.

Society of Women Awareness Nepal. Shova Dangol, Chairperson.

Terre des hommes (Lausanne). Joseph Aguetant, Delegate. Muna Basnyat, Anti-Trafficking Programme Coordinator.

UNICEF Nepal. Joanne Doucet, Chief of Section, Child Protection. Bhanu Pathak, Asst. Programme Officer, Child Protection.

USAID. Madhuri Singh Rana, Programme Development Specialist, Anti-trafficking.

WATCH. Sarmila Shrestha, Executive Member.

Women Forum for Women. Sirjana Pun, Chairperson. Saraswati Neupane, Board Member.

WOREC. Chahari Project. Sudha Jirel, Programme Officer. Rachana Shrestha, Programme Coordinator. Swastika Lama, board member.

World Education. Helen Sherpa, Programme Coordinator. Shrinkhala Thapa, Programme Officer.

## BIBLIOGRAPHY

## ANNEX V.

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Bhandari, T. (2004). Violence against Girls and Women: A Case Study of Padmakanya College, Bagbazar, Kathmandu. (Dissertation). Kirtipur, Nepal: Tribhuvan University Central Department of Population Studies.

CeLRRd, The Asia Foundation. (2002). Analysis of Laws and Policies on Labour Migration and Trafficking. Bhaktapur, Nepal: CeLRRd.

Central Child Welfare Board, Ministry of Women, Children and Social Welfare, Government of Nepal. (2006). National Progress Report: "Plus 5" Review of the 2002 Special Session on Children and A World Fit for Children Plan of Action. Kathmandu: MoWCSW.

Child Workers in Nepal Concerned Centre, ECPAT International. (2003). A Situational Analysis of Child Sex Tourism in Nepal (Kathmandu Valley and Pokhara). Kathmandu: CWIN.

CREHPA. (1996). Risk of Unwanted Pregnancy and Reproductive Health Care among Child Commercial Sex Workers in Kathmandu Valley: A Case Study. Kathmandu: CREHPA.

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Dhungal, B. (2005). The Exploitation of Women in the Cabin Restaurants in Kathmandu. (Dissertation). Kirtipur, Nepal: Tribhuvan University Central Department of Sociology/Anthropology.

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Forum for Women, Law and Development. (2005). Effectiveness of Existing Laws and Institutional Mechanisms to Combat Trafficking in Women and Children in Nepal. Kathmandu: FWLD.

Forum for Women, Law and Development. (2007). Discriminatory Laws against Women: An Updated Study. Kathmandu: FWLD.

Frederick, J., Terre des hommes. (2005). A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India. Kathmandu: Terre des hommes (Lausanne).

Frederick, J., UNDP. (2005). Rapid Assessment of HIV/AIDS and Trafficking in Nepal. Colombo: UNDP HIV and Development Programme for Asia.

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## ENDNOTES

<sup>1</sup> IRIN Web Special, *Between Two Stones: Nepal's Decade of Conflict*, 8, December 2005. <http://www.irinnews.org/pdf/in-depth/Between-Two-Stones-IRIN-In-Depth.pdf>. see also The World Bank. (2008). *HIV/AIDS in Nepal* (2008). <http://siteresources.worldbank.org/INTSAREGTOPHIVAIDS/Resources/496350-1217345766462/HIV-AIDS-brief-Aug08-NP.pdf>

<sup>2</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime. Article 3 (a). 2003.

<sup>3</sup> Human Trafficking and Transportation (Control) Act 2007. Chapter 2. Section 4 (b).

<sup>4</sup> International Labour Organization. *Worst Forms of Child Labour Convention*, 1999 (No. 182).

<sup>5</sup> Dottridge, M., *Terre des hommes*. (2004). *Kids as Commodities? Child Trafficking and What to Do About It*. Terre des hommes (Lausanne).

<sup>6</sup> The resistance of householders in Nepal to the plight of child domestic workers was expressed by field workers from the Nepal NGO Children and Women in Social Service and Human Rights (CWISH) during a 2006 study of internally displaced children by Terre des hommes (Tdh) (see bibliography). The study of sex work

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## ANNEX VI.

in Mumbai and Kolkata conducted by Tdh in 2005 showed that almost all men who had sex with Nepali prostitutes did not think it was relevant that the girls and women had been trafficked.

<sup>7</sup> More information can be obtained from Tdh on the situation in Humla district from which 1,500 children have reportedly been trafficked.

<sup>8</sup> International Labour Organisation, Women Rehabilitation Centre. (2002). *Cross Border Trafficking of Boys*. Kathmandu: ILO/IPEC.

<sup>9</sup> Frederick, J., *Terre des hommes*. (2005). *A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India*. Kathmandu: Terre des hommes (Lausanne).

<sup>10</sup> 7,000 to 12,000 is a number of trafficked persons that has been in currency for more than 15 years and has been repeated in many documents. The source of that estimate is unknown. Recently, ILO estimated the number of trafficked women and children to be 12,000. However, due to lack of supportive data, this number is not founded on a reliable estimate of the number of victims crossing national borders or the number of victims in exploitation in India.

<sup>11</sup> Personal communication: Priti Patkar, Prerana, Mumbai; Indrani Sinha, Sanlaap, Kolkata; Roma Debabrata, STOP, New Delhi.

<sup>12</sup> Ministry of Women, Children and Social Welfare, Government



of Nepal. (2008). Initial Report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Kathmandu: MoWCSW.

<sup>13</sup> Frederick, J., Terre des hommes. (2005). A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India.

<sup>14</sup> USAID. (2008). India HIV/AIDS Health Profile 2008. Delhi: USAID. (Data from India National AIDS Control Organization 2005). Sentinel surveillance in 2007 indicates a stability in HIV prevalence for female sex workers in Maharashtra, although a decline nationally.

<sup>15</sup> Silverman, J.G. et al. (2007). 'HIV Prevalence and Predictors of Infection in Sex-Trafficked Nepalese Girls and Women', JAMA, August 1, 2007 – Vol. 298, No. 5 (Reprinted).

<sup>16</sup> Frederick, J., Terre des hommes. (2005). A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India.

<sup>17</sup> Among other references: Asian Development Bank. (2002). Combatting Trafficking of Women and Children in South Asia: Country Paper: The Kingdom of Nepal. Kathmandu: ADB.

<sup>18</sup> US Department of State. (2008). 2008 Human Rights Report: Nepal. Washington: USDOS.

<sup>19</sup> Nepali Times. (2009). Modern day slavery: Nepali women are paying brokers to be sold to Korean 'husbands'. Issue #438 (13-19 February 2009).

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<sup>20</sup> ActionAid Nepal. (2004). Plight of Cabin Keepers. Kathmandu: ActionAid Nepal. (*hereinafter referred to as the ActionAid 2004 study*)

<sup>21</sup> A number of informal researches and journalistic investigations have been conducted. See inter alia Nepali Times. (2004). Manpower agencies and women's power. Misery at home forces Nepali women domestics in the Gulf to endure abuse. Issue #207 (30 July to 05 August 2004). <http://www.nepalitimes.com.np/issue/207/Nation/1981>.

<sup>22</sup> Estimates by newspapers as well as an MoWCSW study of 2008 (Ministry of Women, Children and Social Welfare, Government of Nepal. [2008]. Study Report about Cabin, Dance Restaurant and Massage Parlours. Kathmandu: MoWCSW) claim as many as 30,000 to 40,000 female workers in the entertainment industry. However, reliable data from professional research organisations suggest a much smaller figure. A 2003 study conducted by New ERA (New ERA. [2003]. Behavioural Surveillance Survey of Female Sex Workers and Clients in Kathmandu Valley: Round I. Kathmandu: New ERA, *hereinafter referred to as the New ERA 2003 study*) estimated a total of 4,000 to 5,000 sex workers in the Kathmandu Valley, including street sex workers. A mapping by CREHPA in 2002 (CREHPA. [2002]. A Situation Assessment of Female Sex Workers in Kathmandu Valley: A Focused Ethnographic Study. Kathmandu: CREHPA, *hereinafter referred to as the CREHPA 2002 study*) estimated between 2,000 and 3,000 persons in the entertainment industry. Numbers are uncertain as no recent mapping has been conducted. The situation analysis conducted for this document in 2009 estimates approximately 6,000 to 7,200 girls and women working in cabin restaurants, 3,400 to 4,000 in dance bars, 900 to 1,100 in dohori restaurants, and 750 to 850 in massage parlours, totalling approximately 11,000 to 13,000 girls and women.

<sup>23</sup> Generally, it is found that the number of night entertainment establishments has been exaggerated by government and the media. However, because many night entertainment venues are unregistered, many go uncounted. The estimates given here are from the Nepal Restaurant Entrepreneurs Association (NREA) and from site observations during the situation analysis conducted for this document.

<sup>24</sup> In a 2008 study by Shakti Samuha (Shakti Samuha. [2008]. A Study on the Condition of Slavery among Girls and Women Employed in the Restaurants and Massage Parlours of Kathmandu Valley. Kathmandu: Shakti Samuha, *hereinafter referred to as the Shakti Samuha 2008 study*), 46.2 % of respondents stated that their 'additional duties' included sex work. In the ActionAid 2004 study, 37% of cabin restaurant workers stated that their activities included either masturbation, oral sex or going with the customers for sex.

<sup>25</sup> In the Shakti Samuha 2008 study, 73% of respondents stated that they performed 'additional duties' due to force from the employer or the customer.

<sup>26</sup> The percentage of children under 18 years is stated as 33% by the Shakti Samuha 2008 study, 16% by a study conducted in 2004 by the National Human Rights Commission (National Human Rights Commission, International Labour Organisation. [2004]. *Girls and Young Women Employed in Entertainment Sector [draft], hereinafter referred to as the NHRC 2004 study*), and less than 30% by the ActionAid 2004 study.

<sup>27</sup> Ministry of Women, Children and Social Welfare, Government of Nepal. (2008). *Study Report about Cabin, Dance Restaurant and Massage Parlours*. Kathmandu: MoWCSW.

<sup>28</sup> The NHRC 2004 study indicates that 47% of respondents stated that they entered the industry before the age of 18. 22% stated that they entered before the age of 16.

<sup>29</sup> New ERA, UNICEF. (1998). *A Situation Analysis of Sex Work and Trafficking in Nepal, with Reference to Children*. (unpublished document)

<sup>30</sup> *Ibid.*

<sup>31</sup> National Human Rights Commission, Government of Nepal. (2008). *Trafficking in Persons Especially on Women and Children in Nepal: National Report 2006-2007*. Kathmandu: NHRC.

<sup>32</sup> NHRC 2004 study.

<sup>33</sup> The Supreme Court held that sex work is like any other profession, and that no discrimination could be made on the basis of sex work. The petition challenged the discriminatory provision of the existing rape law that provided lower punishment for raping a prostitute. The court held that it is not reasonable to punish a crime differently only on the basis of profession or character. (Sapana Pradhan Malla for FWLD v. GoN, writ no. 56/2058. Date of decision: May 2, 2002 (2059/1/18 B.S.). Publication of judgment relating to Human Rights (special issue), Kathmandu, Supreme Court, pp. 144-151.)

<sup>34</sup> Article 12 (3) (f) of the Interim Constitution confers the freedom to practice any profession or carry on any occupation, industry or trade, except in a situation in which the law imposes restrictions on an act that may be contrary to public health or morality.

<sup>35</sup> The Human Trafficking and Transportation (Control) Act, 2064 (2007) states that a person shall be deemed to have committed the act of trafficking in person for: causing someone to be engaged in prostitution by receiving or not receiving benefit of any kind (Section 4 (1) (b), and for having sexual intercourse with a prostitute (Section 4 (1) (d).

<sup>36</sup> Section 2 (c) of the Some Public (Offences and Penalties) Act, 2027, 1970 states: 'Some public offences are prohibited: No person shall commit any of the following acts: (c) Using obscene words, speeches or signs and disturbing the peace thereby, or engaging in obscene acts at a public place.'

<sup>37</sup> New ERA 2003 study.

<sup>38</sup> The percentage of females under 25 in the entertainment sector is stated as approximately 95% by the Shakti Samuha 2008 study, and 75% by a study conducted by New ERA in 2006 (New ERA, Family Health International, SACTS. [2006]. Integrated Bio-Behavioral Survey among Female Sex Workers Kathmandu Valley: Round II – 2006. Kathmandu: New ERA, *hereinafter referred to as the New ERA 2006 study*). The percentage of females under 18 in the entertainment sector is stated as 33% by the Shakti Samuha 2008 study, and 16% by the NHRC 2004 study. It is difficult to determine the actual percentage because many girls in the industry claim to be older than 17.

<sup>39</sup> The percentage of females from Chettri and Brahmin communities is stated as 40% in the Shakti Samuha 2008 study, 40% in the New ERA 2006 study, and 35% by a study published in 2006 by the National Human Rights Commission (National Human Rights Commission,

International Labour Organisation. [2006]. A Study of Girls and Women Employed in the Restaurants of Selected Cities in Nepal. Kathmandu: ILO, *hereinafter referred to as the NHRC 2006 study*).

<sup>40</sup> It is difficult to determine the actual proportion because, in the entertainment industry, many girls and women from *dalit* communities claim to be from "higher caste" communities. World Education reports a percentage of Dalit girls nearer to 20%.

<sup>41</sup> Data gathered by Terre des hommes Foundation and Change Nepal, January-June 2009.

<sup>42</sup> The percentage of girls and women who joined the entertainment profession due to economic problems is stated as 79% by the Shakti Samuha 2008 study, 43% by the ActionAid 2004 study, and 70% by the NHRC 2006 study.

<sup>43</sup> The percentage of girls and women who advise others not to join the entertainment profession is stated as 90% by the Shakti Samuha 2008 study and 87% by the NHRC 2006 study.

<sup>44</sup> The percentage of girls and women with primary education or less is stated as 51% by the Shakti Samuha 2008 study, 60% by the NHRC 2006 study, and 68% by the New ERA 2006 study.

<sup>45</sup> The percentage of ever-married girls and women is stated as 44% by the Shakti Samuha 2008 study, 54% by the ActionAid 2004 study, 46% by the NHRC 2006 study, 72% by the New ERA 2006 study, and 38% by a study being prepared in 2008 for the International Labour Organisation (International Labour Organisation, Shrestha, A.D. [2008]. Women's Employment Status in Nepal: A Study of

Women Workers in Woolen Carpet Industry, Commercial Shops and Cabin/Dance Restaurants. Kathmandu: ILO. [draft], *hereinafter referred to as the ILO 2008 study*) The average of the percentages is 51%. The percentage of girls and women living with their husbands is stated as 14.3% by the Shakti Samuha 2008 study and 15% by the NHRC 2006 study.

<sup>46</sup> It should be noted that many girls and women refer to their male partners as “husbands” but while in fact these can be pimps, boyfriends or married clients who are the fathers of their children.

<sup>47</sup> The law affords women some recompense after abandonment, if it does not punish the husband. A woman may file for divorce after the husband is absent or does not provide her with subsistence for 3 years as well as for evicting her from the house, inflicting physical or mental injury or rape. A wife is entitled to get her share of property from the husband if she is abandoned without being provided any maintenance by either the husband alone or his parents, if she is treated cruelly or if the husband has brought or kept a second wife (No. 4, Chapter on Husband and Wife of the Country Code, 1963).

<sup>48</sup> The New ERA 2006 study found that 21% of the husbands of establishment-based sex workers had a co-wife. Bigamy conducted by men is illegal under Nepali law, though not bigamy conducted by women (No. 9, Chapter on Marriage of the Country Code, 1963). However, the law permits the husband to commit bigamy without consent of the first wife if she has taken her share of property due to his abandonment or cruel treatment (No. 10, Chapter on Marriage of the Country Code, 1963). This creates a situation in which the woman must choose between her conjugal life or a share of property.

<sup>49</sup> The percentage of girls and women with one or more children is stated as 70% by the Shakti Samuha 2008 study, 66% by the NHRC 2006 study, 54% by the ActionAid 2004 study and 56% by the New ERA 2006 study, averaging 61%. The New ERA 2006 study found that the mean number of children per girl/woman was two.

<sup>50</sup> NHRC 2004 study.

<sup>51</sup> The New ERA 2006 study and the NHRC 2004 study noted businessmen, service holders, police and soldiers to be the primary clients of establishment-based sex workers in the Kathmandu Valley.

<sup>52</sup> NHRC 2004 study.

<sup>53</sup> Shakti Samuha 2008 study, ActionAid 2004 study.

<sup>54</sup> During the situation analysis conducted in conjunction with this document, when phoned with a request for girls, the majority of guest houses told the researchers that girls could be provided.

<sup>55</sup> Shakti Samuha 2008 study.

<sup>56</sup> A note on sex workers’ rights: While adult sex workers have the constitutional right to conduct their profession, in practice every effort must be made to ensure that their health and well-being are protected. At the same time, the discourse on sex worker rights often overshadows the issues of sexual exploitation. In Nepal’s entertainment industry, there are three types of girls and women: those who are admitted sex workers, those who are coerced into prostitution, and those who do not conduct sex work, but must submit to groping and sexual harassment in the workplace. The first

may assert their rights as sex workers; the latter two are victims of sexual exploitation.

Whether prostitution *per se* is a form of sexual exploitation is a long-debated subject. On one hand is the issue of 'free choice'- that sex workers have the right to 'choose' the profession. But how much does the term 'free choice' apply to persons who have no viable alternatives and must feed themselves and their children? On the other hand is the issue of violence, and of the physical, social and psychological impacts that appear to be inevitably connected with sex work in South Asia. International and national law clearly indicate that children do not have the 'right' to conduct sex work because it is deleterious to their well-being. Adults may have the right to conduct sex work, deleterious or not – provided that they have made a free choice among other viable options for employment. And this is the key: are the girls and women of Nepal – who need to support themselves but have only worse options – really making a 'free choice'?

<sup>57</sup> Shakti Samuha 2008 study.

<sup>58</sup> Information is taken from interviews conducted for this study. Informants requested anonymity.

<sup>59</sup> Observations conducted by the author during visits to Delhi in 2008.

<sup>60</sup> Interview with persons at INCIDIN Bangladesh and Aparajeyo Bangladesh.

<sup>61</sup> In 2008, the Nepal Tourism Board advertised 'Wild Stag Weekends'

on its travel website. After international reaction following a comment in the Economist about the government's support of sex tourism, the webpage was withdrawn.

<sup>62</sup> International Labour Organisation, New ERA. (2005). Study on the Demand Side of Trafficking of Children and Women in Nepal. Kathmandu: ILO. (*hereinafter referred to as the ILO/New ERA 2005 study*)

<sup>63</sup> The percentage of girls and women who entered by their own decision is stated as 18% by the Shakti Samuha 2008 study, 33% by the ActionAid 2004 study, and 37% by the ILO/New ERA 2005 study.

<sup>64</sup> The percentage of girls and women who entered through the influence of friends is stated as 63% by the Shakti Samuha 2008 study, 52% by the ActionAid 2004 study, and 51% by the ILO/New ERA 2005 study.

<sup>65</sup> An NGO working with entertainment workers claims that girls are paid approximately NPR. 500 for each girl they bring into the industry, and return to their villages every 6 or 7 months, bringing back several new girls.

<sup>66</sup> The percentage of girls and women who entered through the influence of family and/or community members is stated as 11% by the Shakti Samuha 2008 study and 15% by the ActionAid 2004 study.

<sup>67</sup> 52% of cabin workers reported that people came to offer them work in Hong Kong, UAE, Saudi Arabia and other countries, according to the ActionAid 2004 study.

<sup>68</sup> The percentage of females under 18 in the entertainment sector is stated as 33% by the Shakti Samuha 2008 study, and 16% by the NHRC 2006 study.

<sup>69</sup> The percentage of children aged from 12 to 15 years is stated as 11% by the Shakti Samuha 2008 study and 4% by the ActionAid 2004 study.

<sup>70</sup> The percentage of females who entered the entertainment industry before the age of 18 is stated as 47% by the NHRC 2006 study. Of those who enter all forms of prostitution in the Kathmandu Valley, the percentage who enter before the age of 18 is stated as 39% by a study conducted in 2002 by the Community Action Centre (Community Action Center Nepal, International Labour Organization. [2002]. Internal Trafficking among Children and Youth Engaged in Prostitution. Kathmandu: ILO/IPEC.)

<sup>71</sup> Frederick, J., *Terre des hommes*. (2005). *A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India*.

<sup>72</sup> Among other references, see Blanchet, T. (1996). *Lost Innocence, Stolen Childhoods*. Dhaka: University Press Ltd.; Society for the Protection of the Rights of the Child. (2006). *Fading Light: A Study on Child Trafficking*. Islambad: SPARC; Frederick, J., *Terre des hommes*. (2005). *A Study of Trafficked Nepalese Girls and Women in Mumbai and Kolkata, India*.

<sup>73</sup> Interviews with counsellors working with Tdh's Psychosocial Initiative. Organisations associated with this initiative include Change Nepal, SathSath and TPO-Nepal.

<sup>74</sup> Blanchet, T. (1996). *Lost Innocence, Stolen Childhoods*. Dhaka: University Press Ltd.

<sup>75</sup> When asked why they would not encourage others to join their profession, 44% identified the negative attitude of society as the reason in the NHRC 2006 study. In the ActionAid 2004 study, 30% said they were afraid to raise their voices against oppression for fear of public disgrace or embarrassment.

<sup>76</sup> The percentage of girls and women who do not inform their parents about their profession is stated as 58% in the Shakti Samuha 2008 study and 71% in the NHRC 2006 study.

<sup>77</sup> 58% of respondents in the Shakti Samuha 2008 study did not inform their parents of their work, of which two thirds said that they feared losing pride, being disowned, public hatred or parents disapproval. In the NHRC 2006 study, 71% of informants said they did not inform their parents, half of whom stated their parents' negative attitudes or the negative impact on their parents as the reason.

<sup>78</sup> The percentage of girls and women who would discourage others from joining the profession is stated as 90% in the Shakti Samuha 2008 study and 87% in the NHRC 2006 study.

<sup>79</sup> Almost 60% of informants stated sexual harassment or humiliation as the reason they were dissatisfied with their jobs in the Shakti Samuha 2008 study.

<sup>80</sup> Interviews with William Page, Jerry Hopkins, Fredl Aichinger and others in Thailand, Hong Kong and Europe. Interviews with sex

workers in Karachi, Pakistan, who work in UAE and Malaysia. Blog sites for tourists to Nepal.

<sup>81</sup> 90% of informants in the Shakti Samuha 2008 study reported insults, verbal harassment and being treated like a sex object. In the ActionAid 2004 study, two thirds of those who identified specific difficulties in their work stated the difficulties to be torment, humiliation or verbal insults from the customer or owner.

<sup>82</sup> The percentage of customers claimed by female workers to be respectful is stated as 5% in the Shakti Samuha 2008 study and 12% in the NHRC 2006 study.

<sup>83</sup> 30% of female workers in the Shakti Samuha 2008 study and 17% in the NHRC 2006 study stated that owners insulted and verbally abused them.

<sup>84</sup> 78% of respondents in the Shakti Samuha 2008 study and 81% of respondents in the NHRC 2006 study reported sexual harassment by customers.

<sup>85</sup> Of those who claimed to be sexually harassed at work, owners were identified by 22.5% of respondents in the Shakti Samuha 2008 study and 6% in the NHRC 2006 study.

<sup>86</sup> ActionAid 2004 study.

<sup>87</sup> Shakti Samuha 2008 study.

<sup>88</sup> New ERA 2006 study.

<sup>89</sup> Interviews conducted for this document.

<sup>90</sup> CREHPA 2002 study.

<sup>91</sup> CREHPA 2002 study.

<sup>92</sup> NHRC 2006 study.

<sup>93</sup> Interviews conducted for this study.

<sup>94</sup> NHRC 2006 study, ActionAid 2004 study, Shakti Samuha 2008 study, CREHPA 2002 study.

<sup>95</sup> The international weekly, The Economist, distributed throughout Asia, published an article on Nepal's entertainment industry with a full-face photograph of a young dancer. The Economist. (01/04/2008). 'From Treks to Sex: Is a New Sort of Thrill-seeking Heading for Nepal?'. In The Economist.

<sup>96</sup> CREHPA 2002 study.

<sup>97</sup> In the New ERA 2006 study, 10% of establishment-based sex workers reported being assaulted and 8% reported theft by the customers.

<sup>98</sup> Interviews conducted for this study.

<sup>99</sup> The percentage of entertainment workers who felt they did not have the right to protest was noted as 30% by the Shakti Samuha 2008 study.

<sup>100</sup> ActionAid 2004 study.

<sup>101</sup> ActionAid 2004 study.

<sup>102</sup> The percentage of workers who have been employed in their positions for less than one year is stated as 62% in the ILO 2008 study and 45% in the Shakti Samuha 2008 study. According to the ILO 2008 study, 65% of respondents had no knowledge of their labour rights, although 78% were aware of restrictions on child labour.

<sup>103</sup> In the Shakti Samuha 2008 study, 78% of respondents expressed dissatisfaction with their salaries.

<sup>104</sup> 65% of respondents in the ILO 2008 study said their salary was adequate according to their qualifications.

<sup>105</sup> According to the ActionAid 2004 study, 69% of cabin restaurant workers earned from NPR 1,500 to 2,000 plus tips and commission on the sale of alcohol and food, which for 80% range from NPR 1600 to 4,000. The monthly income for the majority totals from NPR 3,100 to NPR 6,000 per month. The ILO 2008 study found the average monthly income of cabin and dance restaurant workers to be NPR 4,366 per month.

<sup>106</sup> The ILO 2008 study determined that girls and women working in the carpet industry averaged an income of NPR 2,727 per month.

<sup>107</sup> The Shakti Samuha 2008 study noted that 38% of respondents stated job in security as the primary reason for dissatisfaction, where as only 8.6% noted low salaries as the reason for dissatisfaction.

<sup>108</sup> 100% of the respondents in the ILO 2008 study and 99% of the respondents in the Shakti Samuha 2008 study said that they received no appointment letter at the time they were hired.

<sup>109</sup> The Shakti Samuha 2008 study stated that 81% of workers do not ask for an increase in salary, of which two thirds gave the reason that they were afraid of the owner.

<sup>110</sup> According to the ILO 2008 study, 73% of entertainment workers work 8-10 hour shifts, with a mean number of 6.8 working days per week. The NHRC 2006 study noted that 60% work 8-10 hours a day, 7 days a week, and the Shakti Samuha 2008 study noted that 76% worked more than 8 hours per day, 7 days a week. The NHRC 2006 study reported that 71% are required to work overtime, but only 3% of those receive compensation. Similarly, the Shakti Samuha 2008 study reported that 61% were required to work overtime, but only 4% received compensation.

<sup>111</sup> The ILO 2008 study noted that 65% of entertainment workers get no break during working hours, and 99% said that they get no time off for public holidays.

<sup>112</sup> In the ILO 2008 study, 100% of respondents said that they were provided no form of maternity support, unlike women in shops, also examined in the study, of whom 75% are provided maternity leave.

<sup>113</sup> The percentage of children under 18 years is stated as 33% by the Shakti Samuha 2008 study, 16% by the NHRC 2004 study, 32% by the ILO/New ERA 2005 study, and less than 30% by the ActionAid 2004 study.



<sup>114</sup> 11% of the respondents in the Shakti Samuha 2008 study and 4% of the respondents in the ActionAid 2004 study were under the age of 16. Other studies did not disaggregate data by ages above or below age 16.

<sup>115</sup> Child Labour (Prohibition and Regulation) Act, 2053.

<sup>116</sup> 63% of respondents in the Shakti Samuha 2008 study, 52% of those in the ActionAid 2004 study, and 63% of those in the NHRC 2006 study were recruited by friends.

<sup>117</sup> 80% of respondents in the NHRC 2006 study said that they were promised a high salary and simple and easy work. When asked if their present work situation agreed with the information they were given at the time of recruitment, 72% of respondents in the Shakti Samuha 2008 study said that their working conditions were different, and worse, than they had been led to believe.

<sup>118</sup> 50% of respondents in the Shakti Samuha 2008 study said they had to do additional duties, most of which involved sex with customers. Of these, 73% said they were compelled by force, primarily by the owner. In the NHRC 2006 study, 18% were compelled by force by the owner to do additional duties. 57.5% of respondents in the ActionAid 2004 study said they were forced to conduct activities against their will.

<sup>119</sup> Comments from interviews conducted for this study. In the ILO 2008 study, 29% of respondents had taken a loan in the last 12 months, primarily from friends and relatives.

<sup>120</sup> Those who are paid on time is noted as 89% in the ILO 2008 study and 73% in the Shakti Samuha 2008 study.

<sup>121</sup> Approximately 20% get transportation according to the Shakti Samuha 2008 study, and 95% get transportation according to the NHRC 2006 study.

<sup>122</sup> 49% of entertainment workers interviewed in the NHRC 2006 study said that their owners acted as their guardians. In the Shakti Samuha 2008 study, 52% of respondents said that their owners were like a friend or a guardian. In the NHRC 2006 study, 66% of respondents said they would go to the owner for work-related problems.

<sup>123</sup> Comments from interviews conducted for this study.

<sup>124</sup> New ERA 2006 study; National Centre for AIDS and STD Control. (2008). UNGASS Country Progress Report: Nepal. Kathmandu: UNAIDS.

<sup>125</sup> National Centre for AIDS and STD Control. (2008). UNGASS Country Progress Report: Nepal.

<sup>126</sup> New ERA 2006 study.

<sup>127</sup> National Centre for AIDS and STD Control. (2008). UNGASS Country Progress Report: Nepal.

<sup>128</sup> Shakti Samuha 2008 study.

<sup>129</sup> CREHPA 2002 study.

<sup>130</sup> Interviews conducted for this report

<sup>131</sup> Guttmacher Policy Review. (2007). Volume 10, Number 4. <http://www.guttmacher.org/pubs/gpr/10/4/gpr100402.html>

<sup>132</sup> Interviews conducted for this report.

<sup>133</sup> Interviews conducted for this report.

<sup>134</sup> In the ActionAid 2004 study, 38% of cabin workers reported that they consumed 1 to 2 bottles of beer per evening, and 30% reported that they drank 3 to 4 bottles per evening.

<sup>135</sup> Shakti Samuha 2008 study.

<sup>136</sup> Shakti Samuha 2008 study.

<sup>137</sup> The New ERA 2006 study reported that 8.3% of establishment-based sex workers had ever taken drugs.

<sup>138</sup> Interviews conducted for this report. Tablets commonly used include Nitrocen, Nitrovet E. and Tidejisik, among others.

<sup>139</sup> Yabaa (also Yaba, Yaa baa, Ya baa or Yah bah, literally "madness drug") are tablets containing a mixture of methamphetamine and caffeine, typically brightly colored in orange or green and carrying logos such as "R" or "WY".

<sup>140</sup> ILO 2008 study, ActionAid 2004 study.

<sup>141</sup> Quotes taken from interviews conducted for this study.

<sup>142</sup> Department for International Development, United Kingdom (DFID), HelpAge International, Hope & Homes for Children, Institute of Development Studies, International Labour Organization, Overseas Development Institute, Save the Children UK, United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP) and the World Bank. (June 2009). Joint Statement on Advancing Child-Sensitive Social Protection.

<sup>143</sup> Ministry of Women, Children and Social Welfare, Government of Nepal, Central Child Welfare Board. (2006). National Progress Report: 'Plus 5' Review of the 2002 Special Session on Children and A World Fit for Children Plan of Action. Kathmandu: MoWCSW.

<sup>144</sup> Children's Act, 2048 (1992). Chapter 1, Section 2 (e).

<sup>145</sup> Ministry of Women, Children and Social Welfare, Government of Nepal. (2008). Initial Report on the Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography. Kathmandu. MoWCSW.

<sup>146</sup> Ibid.

<sup>147</sup> Government of Nepal (Allocation of Business) Rules 2007.

<sup>148</sup> Ministry of Women, Children and Social Welfare, Government of Nepal. (2008). Initial Report on the Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography.

<sup>149</sup> Interim Constitution of Nepal 2007, Article 132.1

<sup>150</sup> National Human Rights Commission, Government of Nepal. (2008). Trafficking in Persons Especially on Women and Children in Nepal: National Report 2006-2007. Kathmandu: NHRC.

<sup>151</sup> UNIFEM, Institute for Integrated Development Studies. (2004). Status and Dimensions of Trafficking within Nepalese Context. Kathmandu: UNIFEM/IIDS.

<sup>152</sup> UNIFEM, Institute for Integrated Development Studies. (2004). Status and Dimensions of Trafficking within Nepalese Context.

<sup>153</sup> See [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CRC.C.15.Add.261.En?OpenDocument?](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CRC.C.15.Add.261.En?OpenDocument?)

<sup>154</sup> Sapana Pradhan Malla for FWLD v. GoN, writ no, 3561 of 2063 (decided on 2064-9-10).

<sup>155</sup> National Center for AIDS and STD Control. (2006). National HIV/AIDS Strategy 2006-2011. Kathmandu: Ministry of Health and Population.

<sup>156</sup> Ibid.

<sup>157</sup> PRI/Advocacy Forum/UNICEF (2006) An Assessment of Young Persons and Juveniles in Prisons, Correction Centre and Police Custodies in Nepal. The study collected data over a period of five months in seven prisons and five police custodies (Kathmandu, Kaski, Morang, Banke, and Kanchanpur Districts). A total of 229 children were interviewed for the study – 169 children in prisons, 23 in correction centre and 37 in police custodies.

<sup>158</sup> Guidance Notes of the Secretary General: UN Approach to Justice for Children, United Nations, September 2008

<sup>159</sup> This paragraph borrows heavily from UNICEF EAPRO 'Child Protection Programme Strategy'.

<sup>160</sup> Quote attributed to Superintendent of Police Ganesh K.C. in-charge of the Metropolitan Police Range, Hanumandhoka. In "Flesh Trade: Police Round Up Teens" by Baburam Kharel, Kathmandu Post, 20 December 2009.

<sup>161</sup> "Two amiable teenage prostitutes, working without a pimp for the 'fast money,' told me that there will always be girls and women selling sex voluntarily. They're probably right. But we can significantly reduce the number of 14-year-old girls who are terrorized by pimps and raped by many men seven nights a week. That's doable, if it's a national priority, if we're willing to create the equivalent of a nationwide amber alert" Girls on our Streets', NY Times, By , Published: May 6, 2009.

<sup>162</sup> Nepal Treaty Act, 1990, Section 9.



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